INDIGENOUS PEOPLES IN NATURAL DISASTERS

Protection in Super Typhoon Haiyan

UNHCR
The UN Refugee Agency
EXECUTIVE SUMMARY

Indigenous Peoples Protection

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), promulgated in 2007, is the most comprehensive international instrument elaborating on the rights and freedoms of indigenous peoples (IPs) and is the foundation for the consideration of individual and collective IPs’ rights, including several provisions with implications for the promotion and protection of IPs’ rights.

In the Philippines, IPs’ rights have long been protected within the national legislative framework. In 1987, the Philippine Constitution was revised to recognise, respect, and protect the rights of IPs to preserve and develop their cultures, traditions, and institutions. Those rights were enacted into law through the Indigenous Peoples’ Rights Act (IPRA) of 1997. The IPRA guarantees IPs’ inherent rights to ancestral domain, self-governance and empowerment, social justice, human rights, education, cultural integrity, self-determined development and Free Prior and Informed Consent (FPIC), without which, developments impacting on IPs cannot proceed.

In its enactment, the IPRA also mandated the creation of the National Commission for Indigenous Peoples (NCIP), the governmental agency responsible for the facilitation of IPRA implementation. The purpose of this agency is:

   to protect and promote the interest and well being of indigenous peoples with due regard to their beliefs, customs, traditions and institutions [...] and serve as the primary government agency responsible for the formulation and implementation of pertinent and appropriate policies and programs to carry out the policies set forth in the new law.

The NCIP has jurisdiction over IP claims and disputes “through its regional offices”, of which there are 12 across the Philippines’ 17 regions. NCIP is yet to establish an office in Region VIII (RVIII). In support of NCIP, the Department of Social Welfare and Development (DSWD) has taken measures to further facilitate NCIP’s work, and IPs’ assertion of their rights in RVIII. More recently, in 2007, the Philippines voted in favour of the adoption of the UNDRIP.

The United Nations High Commission for Refugees (UNHCR) is a leading agency of the United Nations responsible for the protection of forcibly displaced persons, i.e. refugees and the internally displaced (IDPs), whom it refers to as Persons of Concern to UNHCR (PoCs), and most specifically the most vulnerable among those, including for example: women, children, persons with disabilities, indigenous persons, elderly persons, and minorities. Therein, UNHCR recognises each person as unique, and understands that all differences, whether perceived or actual, can play a central role in individuals’ opportunities, capacities, needs and vulnerability.

---

1 1987 Constitution of the Philippines, Principles and State Policies, Section 22; Arts. IV, S. 5; 2; XII, S. 5; XIII, S. 6; XIV, S. 2, 4; XIV, S. 10; XIV, S. 17; XVII, S. 12.


3 Ibid., Chapter VII.


5 IPRA, Chapter IX, S. 66.

6 UN High Commissioner for Refugees (UNHCR), Age, Gender and Diversity Policy, 8 June 2011, available at: http://www.refworld.org/docid/4de8f34f687.html
As leader of the Global Cluster and former co-lead of the Local Protection Cluster with the Department of Social Welfare (DSWD), UNHCR is mandated to provide timely and consistent assistance to the internally displaced persons, and to influence and ensure the protection of the most vulnerable people therein. Similarly, recognizing the temporary nature of our presence, UNHCR works to “build or rebuild and strengthen communities to be able to help themselves, and the capacity and accountability of national and local authorities to meet their protection responsibilities” as well as advocate to across the Cluster system the importance of the prioritisation of the most vulnerable in humanitarian relief efforts.

UNHCR recognizes the unique ethnicity, cultures, traditions, beliefs and social status of IPs, and the human rights protection issues of IPs including: access to housing, land and property (HLP); access to basic services, such as health and education; food security; sustainable livelihoods, and attainment of documentation. Thereby, UNHCR has a history of commitment to, and engagement with, both internally displaced and refugee IPs all over the world, including here in the Philippines. For example, in Mindanao, where the Teduray IP community was forcibly displaced, UNHCR helped the group understand their rights, developing booklets in both Tagalog and in Teduray empowering the community to assert their land rights in a participatory manner, among other projects.

Indigenous peoples (IPs) suffer universal disadvantageous social and economic conditions as compared to the economic and social conditions of majority populations. This situation is no different in Region VIII of the Philippines, where IPs have been in states of continuous displacement for approximately 50 years. The combination of these situations creates a serious barrier to the protection of IPs’ rights, a concern that is heightened in situations of natural disaster.

In addition to the vulnerability IPs suffer, UNHCR acknowledges protection concerns are often less apparent and hence frequently overlooked both in contingency planning and humanitarian response measures in natural disasters. Through application and promotion of the rights-based approach and the age, gender and diversity mainstreaming, UNHCR seeks to ensure that the most vulnerable get to participate fully in the decisions that affect their lives and the lives of their family members and communities and thus get the requisite attention “in disaster responses, not just conceptually but, most importantly, operationally”.

In acknowledgement of the importance of protection of IPs in the Haiyan Operations, the Strategic Response Plan of the Humanitarian Country Team stresses the protection needs for this particularly vulnerable group, highlighting the perennial vulnerabilities which may exacerbate their protection needs and access to protection of their rights:

Indigenous people are among the most affected by the disaster, thus increasing their already particular vulnerability. They often live in areas of difficult access, which under the present circumstances result is extremely limited access to services and assistance. [...] Those areas also previously identified as exhibiting high levels of food insecurity and vulnerable livelihoods [...] and that these people are particularly at risk of resorting to negative coping strategies, such as the sale of remaining assets, reduced food consumption, survival sex, family separation (sending family members elsewhere for work), child labour or begging.

Thereby, this report examines IPs’ rights and the protection thereof in international and Philippine law in situations of natural disasters with a special focus on super typhoon Haiyan. Presenting findings from the field, recommendations for all stakeholders in natural disasters have been generated.

---


8 Joint submission from the Advisory Group on Climate Change and Human Mobility to the United Nations Convention on Climate Change (UNFCCC) on National Adaptation Plans (NAPs). Available at http://unfccc.int/resource/docs/2014/smsn/igo/149.pdf.

9 In partnership with the Advisory Group on Climate Change and Human Mobility; Volker Turk, Director of International Protection UNHCR, Remarks, Discussion on Forum on Climate Change, Berlin, 17 Jun 2014. Available at: http://www.unhcr.org/542e99719.html.


United Nations High Commissioner for Refugees (UNHCR) – www.unhcr.org
KEY FIGURES

100%
IP population displaced in super typhoon Haiyan-affected areas

55.4%
IP population with access to basic services including health & education pre- & post- super typhoon Haiyan

47.01%
IP population that gained access to shelter/relocation assistance

9.04%
IP population with legal land tenure pre- & post-Yolanda

0%
IP population with official NCIP I.D. post-super typhoon Haiyan

PRIORITIES

- Discrimination
- Housing, land & property
- Humanitarian Assistance
- Access to basic services (education, health)
- Documentation
- Livelihoods
- Disaster Preparedness
- Accountability
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXECUTIVE SUMMARY</td>
<td>2</td>
</tr>
<tr>
<td>Indigenous Peoples Protection</td>
<td>2</td>
</tr>
<tr>
<td>TABLE OF CONTENTS</td>
<td>5</td>
</tr>
<tr>
<td>UNHCR INDIGENOUS PEOPLES PROJECT OVERVIEW</td>
<td>6</td>
</tr>
<tr>
<td>Objective</td>
<td>6</td>
</tr>
<tr>
<td>Project Components</td>
<td>6</td>
</tr>
<tr>
<td>Scope</td>
<td>6</td>
</tr>
<tr>
<td>Research methodology</td>
<td>6</td>
</tr>
<tr>
<td><strong>INDIGENOUS PEOPLES &amp; PROTECTION</strong></td>
<td>9</td>
</tr>
<tr>
<td>Indigenous Peoples in Region VIII.</td>
<td>9</td>
</tr>
<tr>
<td>Super Typhoon Haiyan</td>
<td>11</td>
</tr>
<tr>
<td>The Cross-Cutting Nature of Protection</td>
<td>12</td>
</tr>
<tr>
<td>Protection in Natural Disasters: Indigenous Peoples / Internally Displaced Persons</td>
<td>12</td>
</tr>
<tr>
<td>Discrimination</td>
<td>15</td>
</tr>
<tr>
<td>Housing, Land &amp; Property</td>
<td>18</td>
</tr>
<tr>
<td>Humanitarian Assistance</td>
<td>23</td>
</tr>
<tr>
<td>Access to Basic Services: Health</td>
<td>26</td>
</tr>
<tr>
<td>Access to Basic Services: Education</td>
<td>28</td>
</tr>
<tr>
<td>Documentation</td>
<td>30</td>
</tr>
<tr>
<td>Work &amp; Livelihoods</td>
<td>32</td>
</tr>
<tr>
<td>Disaster Risk Reduction</td>
<td>34</td>
</tr>
<tr>
<td>Accountability to Affected Populations / Communicating with Communities / Participation / Access to Information</td>
<td>38</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>41</td>
</tr>
</tbody>
</table>
UNHCR INDIGENOUS PEOPLES PROJECT OVERVIEW

Objective

The number of recorded disasters has doubled from approximately 200 to over 400 per year over the past two decades, with 90% having been climate-related.\textsuperscript{11} Although legislation and policy specific to protection in natural disasters is only now evolving, in working to ensure that the most vulnerable enjoy their rights on an equal footing and are able to participate fully in the decisions that affect their lives and the lives of their family members and communities, UNHCR is working to ensure protection is active “in disaster responses, not just conceptually but, most importantly, operationally”.\textsuperscript{12}

In consideration of the vulnerability IPs suffer, and in response to the objectives of the Strategic Response Plans (SRP) including:

\begin{quote}
\textit{to ensure that [...] indigenous peoples [...] receive priority in terms of protection and assistance by all actors” in a timely and consistent manner, and “to strengthen the protection environment of those affected [...] with specific attention to [...] indigenous peoples [...] as well as communities in [...] remote areas.}\textsuperscript{13}
\end{quote}

While undertaking desk research of the laws and policies relevant to the protection of IPs, UNHCR is working closely with indigenous groups to identify the risks they face as well as strategies to mitigate them in an inclusive manner. This is undertaken such that the organisation may be able to build or rebuild and strengthen the capacity and accountability of humanitarian actors and national and local authorities to meet their protection responsibilities; and IP communities will to be able to help themselves.\textsuperscript{14} The purpose of this work is to highlight and advocate for the necessity of IP consideration in humanitarian action and the protection needs of IPs, in order to mitigate future protection risks among this most vulnerable group in society in natural disasters.

Project Components

- A report examining the rights of IPs in natural disasters according to international and national policy, and the obligations of organisations and government to uphold the standards therein. The study will particularly focus on Region VIII and Region VIII affected areas and the international and local relief efforts undertaken therein. More specifically, the report takes a focused look at four communities specifically given the researchers accessibility to those communities.

Scope

The scope of this report is limited to eight IP communities in Region VIII, Haiyan-affected areas and the international and local relief efforts undertaken therein. More specifically, the report takes a focused look at four communities specifically given the researchers accessibility to those communities.

Research methodology

The activities and interaction of UNHCR with indigenous peoples in super typhoon Haiyan relief efforts in RVIII form the basis for the report. In particular, the report reflects findings of field visits to indigenous communities and Local Governmental Units (LGUs) in create better understanding of the protection challenges faced by indigenous peoples following Haiyan and to learn from experience gained by government units confronted with marginalised indigenous communities in serious natural disasters. From July 21 to November 25(impending) UNHCR will have visited five of the eight targeted indigenous communities across RVIII a total of 27 times, for protection monitoring and research work for this project. Three communities proved inaccessible to UNHCR.

\begin{enumerate}
\item SRP. Available at: http://www.ph.undp.org/content/dam/philippines/docs/Typhoon%20Haiyan/Strategic%20Response%20Plan%20-%20Philippines%2010-Dec-2013.pdf.
\end{enumerate}
Primary data collection involves IP focus group discussions (FGD) to be held in every Haiyan affected IP community, whereby participants are purposefully sampled according to UNHCR’s age, gender and diversity (AGD) policies. These visits also allow for empirical analysis. The following are the eight targeted communities and the dates they were visited for research work.

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Location</th>
<th>Field Visits by Researcher</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bajao</td>
<td>Marvel, Isabel</td>
<td>4 - 5 August 2014</td>
</tr>
<tr>
<td>Mamanwa</td>
<td>KM 16, Tinabanan, Marabut</td>
<td>31 July &amp; 8 September, 2014</td>
</tr>
<tr>
<td></td>
<td>KM 22, Tinabanan, Marabut</td>
<td>31 July &amp; 8 September, 2014</td>
</tr>
<tr>
<td></td>
<td>Guinan, Wispal, Basey</td>
<td>9 September &amp; 21 October 2014</td>
</tr>
<tr>
<td></td>
<td>Kagbana, Burauen</td>
<td>Inaccessible</td>
</tr>
<tr>
<td></td>
<td>Almeria, Biliran</td>
<td>Inaccessible</td>
</tr>
<tr>
<td></td>
<td>Caibiran, Biliran</td>
<td>Inaccessible</td>
</tr>
<tr>
<td>Manobo</td>
<td>Bagacay, Tacloban</td>
<td>1 September 2014</td>
</tr>
</tbody>
</table>

These findings are expanded upon by insights from stakeholder interviews, namely relevant governmental agencies, member organisations of the Protection Cluster, along with other national NGOs that focus on IP rights.

In a process of open coding both constructed and in vivo codes will be applied to the data through the use of UNHCR’s Protection Monitoring Form. The constructed codes allow for a thematic comparison of interviews regarding the themes of vulnerability, assistance and protection. In vivo codes help explore the different perceptions of IPs held both by stakeholder agencies and IPs themselves in the context of Haiyan. Due to the small sample size of agencies, insights provided by the interviewees will have explanatory value but do not constitute the ‘official’ view of any of the participating organisations.

To complement and bolster this research a combination of Critical Discourse Analysis of key legislation, semi-structured expert interviews, and on the outcomes of a regional workshop co-chaired by UNHCR, DSWD and the National Commission for Indigenous Peoples (NCIP). The event was titled: “Workshop on the Specific Needs of Indigenous Peoples in Super Typhoon Haiyan” and attended by leaders of the indigenous peoples communities, governmental representatives, intergovernmental and non-governmental agencies. Two aspects are given particular consideration: Equitable access to, and protection of, human rights for IPs in natural disasters and the impact of humanitarian assistance on IPs’ lives. Finally, data from numerous sources is triangulated in order to establish the actual numbers and locations of IPs in RVIII, while census analysis and Dream software are being applied by DSWD to generate a map on IPs’ locations.
Major Achievements

- DSWD, with encouragement from UNHCR, have compiled a comprehensive database of disaggregated data on the targeted IP households, encompassing: age, gender, livelihoods, locations, lactating/pre-/post-natal mothers, HLP concerns and access to services, among other issues. This will pave the way for improved implementation of the rights-based approach in programme development, while simultaneously opening the gate for other agencies to learn about IPs’ protection concerns and how they can provide humanitarian assistance. Equally, the database will be a useful tool for increasing awareness of IPs’ protection needs across the board, particularly important for future DRR, wherein this information may help to a) reduce IP vulnerabilities and b) improve the disaster risk, preparedness and response in general.

- DSWD has developed a comprehensive welfare and development programme based on the mainstream conditional cash transfer, Pamatid Pamilyang Pilipino, programme (4Ps). The 4Ps offers cash transfers to beneficiaries on a conditional basis- for example, if the children of the household achieve a rate of 85% attendance, money is granted. The current 4Ps includes IP beneficiaries but tends to unintentionally excluded IPs due to strict parameters of participation. The new programme accounts for the complexity and individuality of each community’s accessibility to schools and health services, for example. The programme allows for flexibility, for example if there is no school, then that parameter may be changed somewhat to ensure genuinely willing participants are no longer excluded. In addition, DSWD intend to use the programme to track what the key factors blocking access to services with the intention to rectify such gaps in the social service system.

- DSWD has begun to open dialogue with IPs on preparedness for future disasters, for example in the identification of evacuation sites. Thereby, they have also opened a channel for greater dialogue on other issues, such as access to information.

- As a result of the advocacy of UNHCR, the LGU of Isabel, in consultation with NCIP, DSWD, NDRRM and UNHCR, has initiated the process of trying to secure tenureship of land for the Sama Bajau community. The NCIP and LGU of Isabel have been very proactive in assisting the Sama Bajau community’s resettlement. This is an ongoing process being undertaken according to the principles of the rights-based approach with full participation of the IPs, iterating that relocation will be voluntary, free, informed, and dignified.

  ...when I met UNHCR I learned that the IPs are just the same as you or I, they are human beings too, and we should treat them so.
Indigenous Peoples in Region VIII

There is such extensive diversity of IPs across the world no UN body has adopted an official definition of “indigenous.” Rather the UN system has developed a modern understanding of the term based on particular criteria:

- Self-identification as indigenous peoples at the individual level and acceptance of membership by the community;
- Historical continuity with pre-colonial and/or pre-settler societies;
- Strong link to territories and surrounding natural resources;
- Distinct social, economic or political systems;
- Distinct language, culture and beliefs;
- Form non-dominant groups of society;
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.\(^{15}\)

IPs represent 16% of the entire Philippine population at 14,184,645 persons.\(^{16}\) Indigenous peoples are among the poorest and most marginalized sectors of Philippine society, with much higher illiteracy and unemployment rates than the rest of the population, and an income level far below national averages.\(^{17}\)

They experience continuous neglect and discrimination in the provision of basic social services and HLP rights. The 2008 national budget shows social service provision in indigenous territories is far below that of the rest of the country. The general health situation in regions and provinces with the largest concentrations of indigenous peoples is below the national average. Indigenous peoples experience seasonal to chronic food shortages during the year. A major factor causing food insecurity and poverty among indigenous peoples is HLP issues.\(^{18}\) Many indigenous communities have faced disasters, including earthquakes, floods, landslides, tsunamis, typhoons, coastal erosion and drought, which have caused enormous losses including of lives, property and sources of livelihood. Even though indigenous peoples are often from smaller, close-knit communities that live close to the earth, understand their environment and practise risk reduction strategies and methods that originated within their communities and have been enhanced and passed down over generations, the factors listed in this document are among those placing them at particular risk from the effects of natural disasters.\(^{19,20}\)

There are 110 ethno-linguistic groups across the Philippines which can generally be split into three categories of IPs:

- Traditional: Those who live according to traditional ways and methods, following traditional education, livelihoods and ways of living. Generally they are removed from mainstream society.
- Assimilated\(^{21}\): Those who have joined, mainstream society, whether wilfully or otherwise, attending mainstream schools, undertaking modern, mainstream livelihoods and ways of living, but still define themselves as indigenous. They sometimes maintain aspects of their traditions, such as language, but not always. Assimilated here refers to those who are participants in mainstream society, who have the ability to contribute their voice to issues.
- Semi-assimilated: Those who live neither completely in a traditional nor mainstream way. While all groups of IPs,


\(^{17}\) David E De Vera, Indigenous Peoples in the Philippines: A Country Case Study, 2007


\(^{19}\) Ibid.

\(^{20}\) Ibid.

\(^{21}\) Assimilated and integrated in this study are to be read as: bringing (people or groups with particular characteristics or needs) into equal participation in or membership of a social group or institution.
In RVIII, IPs make up 0.04% of the population. RVIII has the most minor representation of IPs with just 1,512 indigenous individuals, or 0.01% of the total Filipino indigenous population residing in RVIII. These IP communities for the majority fall under the third category of semi-assimilated. Primarily of Mamanwa, Manobo and Sama Bajau ethnicity, many of the RVIII IPs originated from Surigao, Mindanao. There, their lives were hampered by active warfare between government forces, NPA and other illegal armed groups, as well as longstanding conflicts between various groups of IPs and mining companies over land rights and resources. Therefore, in the 1980s they were “forcibly displaced” or

[... forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, [or] violations of human rights [...]]”.

In RVIII, there are 15 confirmed indigenous communities, eight of which were identified by UNHCR as Haiyan-affected communities. These are marked here below by the darker shade.

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Location</th>
<th>Total Population</th>
<th>Families</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bajau</td>
<td>Marvel, Isabel, West Leyte</td>
<td>225</td>
<td>55</td>
</tr>
<tr>
<td></td>
<td>Tanauan, Leyte*</td>
<td>30 (TBC)</td>
<td>6 (TBC)</td>
</tr>
<tr>
<td>Manobo</td>
<td>KM 16, Tinabanan, Marabut, Samar</td>
<td>76</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>KM 22, Tinabanan, Marabut, Samar</td>
<td>22</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Guinan, Wispal, Basey, Samar</td>
<td>30</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Sta. Rita, Samar</td>
<td>23</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Kagbana, Burauen</td>
<td>49</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Almeria, Biliran</td>
<td>39</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Caibiran, Biliran</td>
<td>23</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Las Navas, Northern Samar</td>
<td>52</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Bato, Leyte</td>
<td>726</td>
<td>157</td>
</tr>
<tr>
<td></td>
<td>Saint Bernard, Southern Leyte</td>
<td>144</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>San Francisco, Southern Leyte</td>
<td>40</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Pintuyan, Southern Leyte</td>
<td>25</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Libagon, Southern Leyte</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Lake Danau, West Leyte*</td>
<td>TBC</td>
<td>TBC</td>
</tr>
<tr>
<td></td>
<td>Isabel, West Leyte*</td>
<td>30 (TBC)</td>
<td>6 (TBC)</td>
</tr>
<tr>
<td>Manobo-Mambo</td>
<td>Bagacay, Tacloban City</td>
<td>44</td>
<td>8</td>
</tr>
</tbody>
</table>

*To be verified

For many years, the IP communities in RVIII have suffered a multiplicity of serious recurrent protection concerns that fulfill UNHCR’s prioritisation criteria multiple times over. Based on social factors alone, for example, before super typhoon Haiyan they were suffering: repeated displacement; HLP issues; severe poverty; lack of food security; absence of integration; inaccessibility to basic services and assistance, including health centres and schools; absence of sustainable livelihoods, and discrimination. These factors have both contributed to and resulted in the community being unable to find durable solutions and assert their human rights.

The Sama Bajau arrived in West Leyte in 1989, where they have lived together as one community and have sustained one place of residence in Isabel, West Leyte since. While pre-Haiyan the community did not own the land, they had an agreement with the private landowner who would allow them to stay until he needed the land. However, post-Haiyan the community has been forced to

---

vacate the land at the owner’s behest and thus is once again suffering housing land and property (HLP) issues. Despite this the Sama Bajau have access to are very well integrated socially with the local community.

The Manobo in recent years have managed to attain land titles, yet both communities face serious protection needs specific to their communities. Since arriving in RVIII, many of the Mamanwa have suffered continuous displacement across the region due to conflicts in Eastern Samar, HLP issues and access to services.

IPs as a group are protected according to AGDM due to their ethnic and cultural background and the protection risks that arise therefrom, while individual IPs may incur further protection risks due to their age, gender or other social factors. Due to heightened vulnerability of IPs in natural disasters, UNHCR undertook to advocate for action against, and promote awareness around, the protection challenges faced by indigenous peoples displaced in natural disasters, with a specific focus on typhoon Haiyan and the IPs of Region VIII in the Philippines.

Super Typhoon Haiyan

On 8 November 2013, super typhoon Haiyan, the strongest cyclone ever recorded, struck the Philippines, causing massive devastation in the central regions. Of the 16 million affected people, over 6,200 were officially reported dead and 4.1 million more internally displaced, 6 million of whom were children. Severely affecting infrastructure, housing and livelihoods, protection risks were critical, and most particularly to the most vulnerable, including the Indigenous Peoples, a Level 3 (L3) emergency, was declared leading to the deployment of the United Nations (UN).

In response to Haiyan, the Strategic Response Plan (SRP) was initiated by the Philippines Humanitarian Country Team (HCT) highlighting protection as a key concern on which action was to be taken under the leadership of the Protection Cluster (PC), co-led by the Department of Social Welfare and Development (DSWD) and UNHCR. In support of national and local government bodies and the other clusters, the SRP defined the objectives to:

...strengthen the protection environment of those affected, ensuring non-discriminatory and equitable access to basic and protective services [in a] rights based, gender responsive and culturally sensitive [inclusive and consultative manner] including those whose situation was exacerbated by the disaster [such as] indigenous people [...] receive priority in terms of protection and assistance by all actors.23

As expected, Haiyan exacerbated many of the IPs’ existing protection issues as well as creating additional ones. The identified IP communities, in unison with the general population, suffered displacement, and loss of shelter and livelihoods. However, in addition, many experienced social and political discrimination in aid distribution due to a lack of a local community support system or network and information, and/or their ethnicity, or they were overlooked or missed due to their isolated locations and agencies lack of information, and lack of access to information regarding the IPs, and their whereabouts, demographics and needs. Thus, weak infrastructural support also, among other factors, resulted in IPs being unable to assert their rights.

While NCIP and DSWD continue to do consistent work, and international organisations for the most part implement the rights-based approach in their work, it is clear that IPs have remained under-prioritised on distribution and relief beneficiary lists, and were not consulted with regard to the relief they did receive and the impacts it may have from a cultural perspective. The extent of this is such that many international organisations operating in or near Haiyan-affected IP communities have been almost unaware of IPs’ existence in the area.

UNHCR undertook case studies of 13 natural disasters to examine the protection issues therein. A wide variety of protection risks and realities were highlighted; some arising from the disasters themselves, others linked to the implementation of humanitarian assistance and recovery plans, and others from issues pre-existing the disaster that were exacerbated by the destruction of social and physical infrastructure, increased poverty, and a weakening of social infrastructure.24

There are the different stages of the disaster that trigger different human rights protections. Those of the immediate aftermath of the disaster, the most commonly threatened rights such as the rights to life,25 food,26 health and medical services,27 water28 and the rights to adequate housing, clothing and sanitation.29 During the recovery phase in the long-term aftermath of a disaster, the rights that may be particularly affected might include the rights to education,30 livelihood,31 and HLP. While the overarching rights in are non-discrimination32 and protection; the gate-keepers of all rights. However, each of these is interconnected.

The protection concerns in natural disasters are cross-cutting, multifaceted, interdependent and thus, complex. As will become evident, particularly because IPs tend to be one of the more complex stakeholders in natural disasters, issues discussed in one particular section may be easily applied across the board and while one protection risk may trigger another, the latter may simultaneously trigger the former.

To ensure the most vulnerable gain access to the humanitarian assistance they require, UNHCR considers it of utmost importance that IDPs, and thus IPs, are respected as ‘rights-holders’ rather than beneficiaries. Thereby, UNHCR promotes equal respect for the human rights of all individuals, without discrimination of any kind, and recognition of each person’s diverse needs, strengths and vulnerabilities through the application of the age, gender and diversity (AGD) approach, or the more broadly promulgated system, the rights-based approach.33

Protection in general is governed by the multitude of laws, declarations and instruments encompassed in international law, international human rights law, and international humanitarian law. Therein, it is stated that protection is the responsibility of the State to uphold for all of its citizens. Both pre- and post-Haiyan, IPs were in states of displacement. Therefore, at both points in time, they are recognized as internally displaced persons (IDPs) with specific protection needs due to their IP status.

While international conventions fail to acknowledge IDPs of natural disasters directly, there is no doubt that this category of rights-holder is entitled to protection under international law. The most comprehensive examination of the applicability of which can be found in the International Development Law Organisation’s Manual on International Law and Standards Applicable in Natural Disaster Situations. In addition, the Human Rights Council has taken a detailed examination of IDPs in Natural Disasters through the work of the Special Rapporteur to the UN Secretary General, (SRG) on the human rights of IDPs. The most recent resolution to arise there from similarly emphasizes State responsibility, but this time:


25 See, for example, International Covenant on Civil and Political Rights, (ICCPR) 1966, art. 6.

26 See, for example, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, art. 11.2 (a).

27 See, for example, ICESCR, 1966, art. 12.

28 See, for example, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, art. 14(2)(h); Convention on the Rights of the Child (CRC), 1989, art. 24(2)(c).

29 ICESCR, 1966, art. 11.

30 Ibid., art. 13.

31 Ibid., art. 6.

32 Ibid., art. 2.

to provide protection and assistance to internally displaced persons within their jurisdiction, including through the facilitation of durable solutions, and to address the root causes of the displacement problem in appropriate cooperation with the international community.\textsuperscript{34}

As the cornerstone for IDP protection and an important international framework, the Human Rights Council recognizes the Guiding Principles on Internal Displacement. Highlighting the multi-faceted and cross-cutting elements of protection this instrument encourages Member States and humanitarian agencies, as well as development donors and other providers of development assistance, to continue to:

[...]{\textit{work together in endeavours to provide a more predictable response to the needs of internally displaced persons, including their need for long-term development assistance for the implementation of durable solutions, and, in this regard, calls for international support, upon request, for the capacity-building efforts of States.}}\textsuperscript{35}

Therein, States must create and coordinate a “cycle of protection” that continues to adapt to the challenges surrounding natural hazards and optimizes protection to those affected in order to mitigate the impact of disasters, prevent displacement and other negative consequences, and find durable solutions for the displaced.\textsuperscript{36} Similarly outlined by the Hyogo Framework for Action, State responsibility covers not only the immediate response phase after a disaster strikes, but begins with preparedness before disaster strikes and extends to recovery, reconstruction, durable solutions and reinforced preparedness measures on the basis of lessons learned.\textsuperscript{37} This cycle of protection must target both immediate and longterm recovery, as well as prior existing patterns of discrimination and marginalization which may be exacerbated by, or begin to exacerbate, recovery.\textsuperscript{38}

While national legislation in the Philippines does not yet protect IDPs specifically, protection against natural disasters and displacement are enshrined in the Disaster Risk Reduction Act of 2010.

Specifically targeting IP protection, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is the most comprehensive international instrument elaborating on the rights and freedoms of indigenous peoples (IPs) and is the foundation for the consideration of individual and collective IPs’ rights. While, the Philippines voted in favour of the adoption of the UNDRIP in 2007. Consistently, IP rights have long been protected within the national Philippine legislative framework. In 1987, the Philippine Constitution was revised to recognise, respect, and protect the rights of IPs to preserve and develop their cultures, traditions, and institutions.\textsuperscript{39} Those rights were enacted into law through the Indigenous Peoples’ Rights Act (IPRA) of 1997.\textsuperscript{40} The IPRA guarantees IPs’ inherent rights to ancestral domain, self-governance and empowerment, social justice, human rights, education, cultural integrity, self-determined development and Free Prior and Informed Consent (FPIC), without which, developments impacting on IPs cannot proceed.

In furtherance of IP protection, The IPRA mandated the creation of the National Commission for Indigenous Peoples (NCIP), the governmental agency responsible for the facilitation of IPRA implementation.\textsuperscript{41} The purpose of this agency is:

\begin{quote}
\textit{to protect and promote the interest and well being of indigenous peoples with due regard to their beliefs, customs, traditions and institutions} [... \textit{and} serve as the primary government agency responsible for the formulation and implementation of pertinent and appropriate policies and programs to carry out the policies set forth in the new law.}\textsuperscript{42}
\end{quote}

The NCIP has jurisdiction over IP claims and disputes “through its regional offices”, of which there are 12 across the Philippines’ 17 regions.\textsuperscript{43} However, NCIP is yet to establish an office in Region VIII (RVIII). Protection of rights is afforded to the IPs through the judicial system of the Philippines, NCIP and the Department of Social Welfare and Development (DSWD).

\textsuperscript{34} \textit{Vice-President and Rapporteur: \textit{Mr. Luis Gallegos Chiriboga (Ecuador), Report of the Human Rights Council, A/HRC/23/2, 27 August 2013 para. 4; See also General Principles on Internal Displacement (GPID), Principle 3, stressing that “National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.”, GPID, Principle 9, “States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands”.}}\textsuperscript{\textit{Ibid.}, para. 12.}


\textsuperscript{36} \textit{Ibid., para. 21.}

\textsuperscript{37} \textit{Ibid., para. 23-24}

\textsuperscript{38} \textit{1987 Constitution of the Philippines, Section 22; Arts. IV, S. 5, 2; XII, S. 5; XIII, S. 6; XIV, S. 2, 4; XIV, S. 10; XIV, S. 17; XVII, S. 12.}

\textsuperscript{39} \textit{IPRA.}

\textsuperscript{40} \textit{Ibid., Chapter VII.}


\textsuperscript{42} \textit{IPRA, Chapter IX, S. 66.}
When governments are unable or unwilling to act, or require assistance, humanitarian actors must step in to fill this “protection gap.”

Thereby, in accordance with the guidance of the Global Protection Cluster, the role of humanitarian agencies is to ensure that their activities link to and complement national efforts and build national capacity to respond to future disasters. While, where national mechanisms are not in line with international standards, efforts should be made to strengthen them, rather than establish parallel processes.

A comprehensive examination was undertaken by UNHCR Philippines to examine the protection concerns of IPs in natural disasters. Therein, it was found that while a multitude of protection concerns were encountered, the most pressing risks reappear as exacerbatory factors for all other rights. These include the persistent violations of Discrimination, Participation and Housing, Land and Property (HLP). These are perennial issues that drastically increased the vulnerability of IPs in supertyphoon Haiyan and that were drastically impacted upon by a myriad of other perennial, and fresh, protection issues. Here below a number of these rights, or lack thereof, and how IPs are affected thereby, are all explored.

---

44 Inter-Agency Standing Committee (IASC) Operational Guidelines (OG) II.2; IASC OG II.1.

Discrimination

The principles of equality and non-discrimination contained in almost every human rights instruments, including Chapter V, Section 21 of the IPRA, the Constitution of the Philippines, and the UNDRIP among many others, are central tenets of international human rights law and humanitarian principles. Therefore, they must underpin all humanitarian efforts including the provision of access to disaster relief, durable recovery and DRR in accordance with the humanitarian principles of humanity, impartiality and neutrality.

The UNDRIP affirms that: “indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such.” Thus, the principle of non-discrimination allows distinctions based upon serious and objective reasons and requires the duty-bearers to identify beneficiaries according to the degree and character of their needs. Hence, the Committee on the Elimination of Racial Discrimination, finds that:

To treat persons or groups whose situations are objectively different in an equal manner would constitute discrimination in effect, as would the unequal treatment of persons whose situations are objectively the same.

Therefore, to alter the provision of assistance to the needs of the people affected is not a violation of the principle of non-discrimination; rather, it reflects an appropriate human rights-based approach to the delivery of humanitarian relief, durable solutions and DRR.

Especially vulnerable persons among the displaced, such as IPs, tend to suffer multiple protection risks related to discrimination simultaneously. For example, they are IPs, who are part of another vulnerable group, i.e. they are children, expectant mothers, mothers with young children, female heads of household or elderly persons. In addition, they are impoverished and they lack security of tenure. For this reason, they are entitled to protection and assistance required by their conditions and to treatment which takes into account each of their special needs.

Findings

• IPs have a pre-existing history of discrimination in the Philippines, which has continued post-Haiyan. These patterns of discrimination have exacerbated IPs’ equitable access to humanitarian relief, durable solutions and DRR. While the law provides comprehensive protection to for IPs, its implementation is weak. Stronger reinforcement of this law across the country will greatly benefit and further protect IPs.

• IPs are multiply displaced in their lifetimes. Legislation on internal displacement and the rights of IDPs could help to bolster the protection of IPs in circumstances of displacement.

• NCIP, the guardian of IP rights, has no office in Region VIII (RVIII). Without this office NCIP is not taking targeted action to aid the most vulnerable, particularly the assertion of HLP related rights. The recent workshop co-chaired by NCIP, DSWD and UNHCR on the Specific Needs of IPs in Typhoon Haiyan (the workshop), found that RVII and RVIII IPs are amalgamated under “RVII” within NCIP for administrative reasons. However, while NCIP’s 2014 budget does not refer at all to RVIII, it also lacks expenditure allocations in RVII for a number of NCIP services including: assistance to ancestral domain, sustainable development and protection plan (ADSDPP) formulation, socio-economic services, education and advocacy.

There is much need to ensure that NCIP’s budgetary frameworks allow for a response to the specific needs of the IPs in natural disasters in order to guarantee their human rights. In the absence of NCIP, DSWD has taken measures to further facilitate the protection needs of IPs and the assertion of their rights in RVIII. Despite this, there remains a need for greater

46 IPRA, Section 21
47 ICCPR, Arts. 2.1 and 26; Universal Declaration of Human Rights (UDHR), Arts. 1 and 2; ICESCR, Art. 2.2; United Nations Declaration on the Elimination of all Forms of Racial Discrimination (CERD) (1978), Art. 10; IASC Policy B1.2; GPIC Principle 4.
capacity and support of IPs. This highlights the imperative need for funding and capacity building of NCIP and/or DSWD, particularly for programming and legal support.

- Data on IPs’ exact locations and population figures in RVIII remains contradictory between agencies, both governmental and humanitarian, with numbers of IPs varying as wildly as from zero to 2,500 at single locations. DSWD has been proactive in accumulating disaggregated data on IPs and now provides the most reliable source of data. Mismatches in information can create frustration for agencies wishing to provide assistance, thus it is recommended that this source be accepted as the most concise and correct information for dissemination by both agencies. Similarly, given the constant movement of IPs, it is important to continue to update the data regularly, obtaining a clearer picture of the numbers, needs and conditions of IDPs during all phases of displacement, but in particular after return, is essential to design effective policies to address their needs and rights.

- UNHCR with CFSI has undertaken regular protection monitoring of most IP communities, however, community-based protection networks, referral pathways and response mechanisms have been found to be weak. It is recommended that DSWD and NCIP work with civil society and the LGU to strengthen these systems so as to empower IPs and reinforce their coping capacities amidst displacement.

- At the local level there is a lack of support within the LGUs whereby IPs have reported that Barangay officials and locals sometimes perceive targeted aid for IPs as favouritism and thus, discriminate against them socially. It is encouraged that training, awareness raising and advocacy is undertaken at the LGU level to help society understand the protection risks IPs are exposed to. This will improve societal understanding and acceptance, and the integration of IPs.

- The IPs were, for the most past, overlooked in Haiyan operations. This may be a result of a number of factors including perennial protection issues related to discrimination generally and HLP, for example. The need for comprehensive vulnerability mapping on the part of all agencies is imperative to ensure all of the truly vulnerable are captured.

- Difficulties in the operationalization of IPs’ rights tend to relate to a lack of awareness about relevant rights and standards; difficulties in identifying practical steps for implementation; and conflicting interpretations of the content of rights. The workshop revealed that the knowledge-base of all stakeholders, including the national and international humanitarian community, is very poor in reference to IPs and their rights; a lack of awareness in this case has undermined IPs’ opportunities to access humanitarian relief. Accessing and understanding the applicable legal framework and policies with regard to IPs, particularly in natural disasters, is imperative for the manifestation of a rights-based humanitarian response. An important source of guidance for humanitarian actors is the international legal framework, which comprises treaty-based law, international customary law as well as international declarations, standards and recommendations, and guidelines.

- Within the communities themselves, gender-based violence or exploitation did not come to the attention of UNHCR. Equality between the sexes is overtly exhibited; in eight tribal groups, two have female leaders, and in all, women are always given access to speak freely and openly, and appear to contribute in equal terms to livelihoods.

- Much discrimination occurred in the process of the Haiyan operations. However, this is further framed under the other rights in the sections below.

---

53 Ibid.
54 Philippines: Comprehensive response to wave of displacement crises needed, Internal displacement Monitoring Centre, Norwegian Refugee Council, December 2013
**Recommendations**

- The government must ensure full implementation of IPRA and constitutional rights of IPs.

- The government is recommended to implement codification of law protecting IDPs.

- The government is urged to increase capacity of NCIP and/or DSWD for more targeted protection activity in RVIII.

- NCIP and DSWD are encouraged to improve collation of disaggregated data on IPs, and its consistent maintenance.

- Reinforcement of the relationship between NCIP and DSWD towards greater inter-agency sharing and support is highly recommended.

- DSWD, NCIP, civil society and LGUs work together to strengthen community-based monitoring systems, referral pathways and response mechanisms.

- NCIP and DSWD, and all agencies are encouraged to increase training, advocacy and awareness about IPs at the LGU level and to local populations, and training on the rights based approach (RBA).

- All agencies, particularly humanitarian agencies, are to ensure vulnerability mapping is comprehensively undertaken by referring to all local and governmental organisations.

- Humanitarian agencies are to improve their understanding of the most vulnerable in disaster situations by conducting staff training on IPs for example.

- All agencies are to ensure the RBA is applied in all of their work and to continuously refresh staff’s knowledge thereon.
Housing, Land & Property

Housing, Land and Property (HLP) issues are referred to as the “Pandora’s Box” of rights as they underpin, and are articulated in international law as the entry point for access to, almost all other rights, and particularly socio-economic rights. The equitable and comprehensive maintenance of HLP rights is integral to effective humanitarian relief, durable solutions, DRR and the realization of other human rights, including the rights to life, health, adequate food, decent work, information, gender equality, security of person and a safe and healthy environment. The achievement of HLP rights is a vital step towards alleviating poverty and development.

Rights to HLP and adequate living standards are protected under several international treaties, including the ICCPR, ICESPR and CEDAW. Such law is supplemented by operating standards and guidelines developed and approved by the international community. These include the 2006 IASC Operational Guidelines on Human Rights and Natural Disasters (IASC guidelines), the GPID and the 2005 Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles).

Institution of HLP rights is integral to effective recovery and longer-term sustainable development. Three main features underlie the importance of HLP as noted by UNHCR:

without access to land, housing and property, people are robbed of their main source of physical, economic and livelihood security, including shelter and access to food, safe water and sanitation.

Access to HLP ensures economic protection by providing access to livelihoods and limiting dependency on humanitarian assistance. Poverty can be significantly alleviated if HLP needs are addressed comprehensively and equitably, because HLP provides access to livelihoods, protection from rights violations and provides capital to access credit. HLP rights and security of tenure provide the disaster affected with physical and social protection, most particularly the vulnerable groups including IPs, because those who lack safe housing have reduced access to social services and tend to be more vulnerable to abuse such as sexual and gender-based violence. HLP for IPs encompasses: security of tenure, cultural adequacy, affordability, habitability, accessibility, location and availability of services, materials, facilities and infrastructure, all undertaken in a transparent and participatory manner. For example, this means ensuring that “the poor, and in particular [ethnic groups], are fully taken into consideration in the reconstruction plans with regard to access to housing, education and healthcare”, and “the design and implementation of all decisions affecting them”.

There are a multiplicity of legitimate tenure arrangements besides private ownership, such as public or private rental accommodation, cooperative housing, lease, emergency housing, occupation/rent of land or property in informal settlements, and


59 CEDAW.

60 IASC A.1.5

61 GPID 12.


63International Law and Standards.

64 UNHCR. Action Sheet: Land, Housing and Property Restitution, p 1.

65International Law and Standards.

66Ibid.

67 UNHCR, Action Sheet: Land, Housing and Property Restitution, p 1.


69 Human Rights Committee, United States of America, CCPR/C/USA/CO/3, para. 26.

70 Committee on the Elimination of Racial Discrimination, Concluding Observations, CERD/C/USA/CO/6, para. 31.
other user or occupancy rights through statutory, customary, religious or hybrid arrangements all with varying degrees of formality. Notwithstanding the type of tenure, all persons including IPs should possess a degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats.

A right to land is not articulated in international law except in the case of indigenous peoples, for example, in article 27 of the UNDRIP. Similarly, the IPRA upholds this principle:

The State shall endeavor to resettle the displaced IPs in suitable areas where they can have temporary life support systems: Provided, that the displaced IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: Provided, further, that should their ancestral domain cease to exist and normalcy and safety of the previous settlements are not possible, displaced IPs shall enjoy security of tenure over lands to which they have been resettled: Provided furthermore, that basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed.

However, despite the enactment of the IPRA, other laws, doctrines and policies on land and natural resources continue to be in force, which contradict the rights of indigenous peoples to their ancestral lands. An insufficient legal and budgetary framework is a major challenge to the assertion of IPs’ rights. The SRG for the human rights for IDPs has urged that legal and budgetary frameworks be implemented to properly protect and give redress to IDPs, which by default includes IPs.

Findings

Land and Security of Tenure:

- The vast majority of IPs in the Philippines do not have private ownership rights over the land on which they dwell. In many cases this is because of a customary belief in collective custodianship over the land, rather than individual private ownership. The lack of formal legal documents for many IPs is also attributable to the practice of maintaining an oral rather than written tradition.

- IPs in RVIII have been in a continuous state of displacement for many years as a result of conflict and HLP issues. In consequence, IPs’ access to basic rights and services including: food security, health, education, livelihoods, development and a concrete community network and support system have been repeatedly hindered and denied. While HLP is a perennial protection issue, it directly contributed to creating increased vulnerability within an already vulnerable category of IDPs in the aftermath of super typhoon Haiyan. In turn, this contributed to increased protection risks in the communities’ access to humanitarian aid. Therefore, solving the IPs’ HLP issues will result in helping to create a solution for many other protection issues IPs are at risk to.

- Of the targeted communities, 9.04% of families possess legal tenureship over their place of residence; this refers to Bagacay where the community has group ownership. The Sama Bajau have maintained a verbal agreement with a private landowner but after Haiyan were asked to vacate the lot.

- Excepting the Manobo-Mamanwa community, the IPs of RVIII have never been resettled by the State despite years of displacement and never having had security of tenure. This section focuses on the communities that were visited as part of the research (Marabut, Basey and Bagacay) and the three scenarios they faced post-Haiyan:

  Mamanwa/Mamanwa-Manobo:

  o The Mamanwa have been in a state of displacement for approximately 50 years. They arrived in Samar initially in order to escape conflict between State, NPA and other illegal groups in Surigao, Mindano. Initially the community moved to Eastern Samar, but following the breakout of conflict once again the community were again displaced. Since then the community have been displaced multiple times across Samar for reasons mainly related to lack of tenureship and access to livelihoods and basic services. In recent years the community have split. The Mamanwa in

---


72 IPRA, Section 7(d).

73 Country Technical Notes
ICESCR, International Law and Standards

Philippines: Comprehensive response to wave of displacement crises needed, Internal displacement Monitoring Centre, Norwegian Refugee Council, December 2013.

When the Mamanwa lost everything including their livelihoods, some families at Km 22 moved to Km 16 to be closer to humanitarian relief efforts. Meanwhile, the community at Km 3 in Basey state that they were advised to move to an urban centre in order to access relief. Therefore, they moved to Wispal Barangay, in Guinan, Basey. Despite this and their vulnerable status, they continued to by overlooked by Haiyan operations for the most part. Equally, the State neither offered temporary relocation to Bagacay, nor help to Marabut or Basey to resettle or gain tenureship over the land they currently inhabit.

Sama Bajau:

- The Sama Bajau arrived in Isabel, West Leyte in 1989 to escape the conflict involving government and non-governmental factions in Surigao, Mindanao. There, they have sustained one place of residence ever since. While pre-Haiyan the community did not own the land, they had a verbal agreement with the private landowner that allowed them to stay until he needed the land. When Haiyan hit, the community evacuated to a local evacuation centre with the general population. However, post-Haiyan the community were refused reentry to the land for two reasons: the owner states he needs the land, and the land is within the “40m no-build zone”.
- The LGU and NCIP have been proactive in trying to assert the IPs’ HLP rights by locating new land to resettle them on. They have taken a very participatory route in choosing the location, which is to be commended. However, they have faced obstacles with the sites they have identified and thus, the IPs are currently in houses they have built over the sea. Examples of the obstacles are:
  - Traditionally the Sama Bajau live on or by the sea and they maintain their livelihood from the sea; two sites are too far from the sea (more than 50m), thus the sites conflict with Sama Bajau culture.
  - One site is too far from the town proper and therefore all of the basic services the IP’s need. It also poses problems of further displacement as it only offers residency until the landowner needs the land again.
  - Two sites offer the option of moving only to the IPs. The IPs feel the whole community should be moved so as not to generate feelings of tension or further discrimination.
- Meetings have been held between the IPs, the landowner, NCIP, the LGU, UNHCR, the Department of Engineering and Natural Resources (DENR) and the Municipal Disaster Risk Reduction Management Officer (MDRRMO). One year on, a resolution is yet to come about and the Sama Bajau remain in unsafe location without WASH facilities.

- The challenge in the case of land tenureship is to secure land that addresses the traditions and cultural requirements of each community, and to acquire informed, participatory and voluntary consent or approval from the community of the land. Repeated displacements tend to increase communities’ vulnerability and undermine their resilience. Studies show that displaced households from previous disasters tend to be more exposed to weather-related shocks than those who had not been displaced. For example, the IPs at Marabut rebuilt makeshift shelters after Haiyan, but then lost everything again, including livelihoods, in typhoon Rammassun eight months later. Settlement and tenureship of land in locations where IPs are already located is encouraged as it is worth noting that:

  experience has shown that resettlement of indigenous people with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival.  

States must comply with this right to the maximum of their available resources in accordance with the ICESCR.

- In relation to the movement of the IPs relocation towards urban areas, it is important to note that the root causes of migration to urban settings are closely linked to human rights violations, which compel indigenous peoples to migrate. Indigenous peoples face particular challenges to the fulfilment of their rights, including their access to housing, safe water and sanitation when living in urban areas. For example, they tend to establish themselves in informal settlements, which are at increased risk from extreme weather events. From a cultural perspective, the serious disconnection from their lands,

74 Philippines: Comprehensive response to wave of displacement crises needed, Internal displacement Monitoring Centre, Norwegian Refugee Council, December 2013.

75 International Law and Standards

76 ICESCR, Art. 11(1).

territories and resources also has a disastrous impact on the spirituality of indigenous peoples and their spiritual relationship with the land.\textsuperscript{78}

- These situations emphasize again the need for implementation of the laws protecting IPs. Laws on paper must be followed by actions to make them equitable. There is also a need for accountability to ensure these laws are followed through, particularly when IPs are in dangerous situations. NCIP is the agency obliged to implement IP protection. Their inaction most likely points to a lack of capacity. It is encouraged that a) NCIP’s capacity is built up to withstand the needs of all the IPs in the Philippines equitably, not just those in Luzon or Mindanao; b) DSWD as the supporting agency receives capacity support including training on how to undertake HLP cases; c) The State is made accountable for not following through on the rights and freedoms it must grant to its citizens, through proper implementation of all laws of the land.

**Shelter Assistance:**

- The humanitarian community assisted Bagacay to rebuild their houses onsite by providing materials. This is an example of a durable solution that has come about due to the lesser number of exacerbating circumstances that this community has.

- Shelter assistance in the form of tents was given to all of the IP communities. However, the IPs in Basey, for example, did not receive tents until four months after Haiyan. Assistance in the form of housing materials was distributed to all members of the Km 22 Marabut community and four households each at KM 16 and Burauen communities. This was done despite the informal status of these communities’ settlements, and Km 16 was in fact an entirely new location for the community. As above mentioned these moves to new locations by the Marabut and Basey IPs were advised such that the community could avail of further support. These moves were not necessarily voluntary; the communities felt it was not a free, informed or dignified relocation, particularly as it involved illegal settlement in an environment inconducive to the continuation of their traditional livelihoods. The materials included wood, GI sheets and nails. The Sama Bajau were also promised materials but they never received the GI sheets or nails, despite requesting for them numerous times.

- Traditionally, IPs’ houses are made of nipa. This material was not offered to the IPs, nor were they ever consulted regarding the matter. When asked how they felt about this, the communities all agreed that they would prefer to have been given a choice and that they would like to have nipa. However, they stated that they appreciate the durability of GI sheets and feel safer there under and thus, despite their preference being for traditional materials, they would choose GI sheets for practical reasons. One community also highlighted that just because they are IPs it does not mean that they do not want to develop and progress, especially when it comes to safety and sustainability.

\textsuperscript{78} A/HRC/27/52.
Recommendations

• HLP is the foundation to many other rights. Laws derogating from IPs’ access there to in Philippine legislation must be adapted by the government to realign them with the IPRA and international law.

• Increased sufficient budgetary and legal capacity for IPs rights is required. The government is urged to improve these capacities for NCIP and DSWD.

• Given the leadership of DSWD on IP issues in RVIII, increased DSWD is recommended particularly on implementation and redress of HLP training. NCIP is urged to facilitate this.

• HLP underpins economic, social, physical, and psychological security. The comprehensive implementation of HLP rights is non-negotiable and must be advocated for by all agencies.

• Likewise, thereby humanitarian agencies are to ensure to build alliances with governmental stakeholders given their knowledge on their population and the IPs.

• Improved coordination between agencies working across IPs areas is imperative to ensure the most vulnerable are both protected immediately after the typhoon. This is also necessary to ensure that longterm humanitarian assistance needs related to livelihoods, standards of living, DRR and preparedness are met.

• Free prior and informed consent of IPs is imperative. DSWD and NCIP must assist IPs to achieve their rights to land in a participatory manner, in partnership with other agencies.

• Engagement and sensitisation of all agencies on IPs’ HLP rights in accordance with the RBA is imperative, and of the exacerbating impact the non-fulfillment of HLP has on others rights. All agencies are encouraged to continuously refresh staff knowledge and account for their implementation of RBA, including the concepts of cultural sensitivity in material distribution and participation of IPs in decisions regarding their lives.

• Many IPs were without shelter assistance for months. Timeliness in all operations is critical. Agencies are to ensure they operate in accordance there to.

• Highlighting the importance of access to services and livelihoods, in the relocation of IPs cultural sensitivity must be always accounted for. Likewise cultural sensitivity around materials is also encouraged. These are best implemented through use of the RBA.
Humanitarian Assistance

Although not mentioned in treaty-based law, the IASC guidelines make multiple references to the right to humanitarian assistance in disaster settings. Humanitarian assistance is a necessary element to the right to life with dignity. Encompassed therein are the rights to: adequate food, water, clothing, shelter, an adequate standard of living and good health as guaranteed by international law and the IPRA. While, the tendency may be to attribute lack of humanitarian assistance to the IPs’ isolated location, that would be in contravention to international human rights law which promotes respect for IPs’ cultures, of which isolated living is one.

The Sphere Standards, which set out standards in humanitarian assistance, state the humanitarian responsibility to ensure accessibility of assistance to all in need, while prioritising the most vulnerable who may face exclusion. Humanitarian action should be based on assessed need and provided to all persons affected by the natural disaster without adverse distinction of any kind other than that of different needs. In particular, measures should be taken to grant priority access to vulnerable groups such as minorities, single-headed households, elderly, people with disabilities, and unaccompanied and separated children.

Adequacy of humanitarian goods and services means that they are (i) available in sufficient time, quality and quantity; (ii) accessible physically, without discrimination, and with availability promoted (iii) acceptable in accordance with AGD standards and (iv) adaptable to the ever-changing situations in emergency relief. Thereby, under the regulations of AGD, IPs’ culture and traditions are to be accounted for in the provision of goods and services, and IPs are to be consulted at all stages regarding these issues.

Findings

- IPs’ access to humanitarian assistance has been very limited, such that the standard of living has been far below the minimum standards whereby food security has been non-existent, and shelter and access to health, among other rights, minimal. Referring back to the cross-cutting element of IPs access to rights, the following have been contributors to this gap in humanitarian assistance:
  a. Longstanding HLP issues leading to a lack of clear data on IPs locations;
  b. Lack of data on communities’ locations as a result of government incapacity;
  c. Lack of access to information for humanitarian organizations;
  d. Lack of information on the part of humanitarian organizations;
  e. Lack of advocacy by the government and the protection cluster;
  f. Lack of direct distribution by humanitarians leading to discrimination at LGU level;
  g. Lack of information for the IPs.

- In the immediate aftermath of Haiyan, the Sama Bajau were located at an evacuation centre where they had equal access to relief.

- The Mamanwa and Mamanwa-Manobo utilised traditional evacuation methods. The corrob is an evacuation shelter whereby the community digs a hole in the ground and then interlocks tree trucks over the top to cover them while the typhoon passes. However, as a result of using this method, the IPs had no access to initial humanitarian assistance. Consistently, OCHA stated food aid was primarily limited to IDPs registered at official evacuation centres and relocation sites.

- The IPs gained access to shelter assistance, as discussed above, and NFIs in the form of blankets, hygiene kits, charcoal stoves, tarpaulins, solar lanterns and jerry cans. Food support came from DSWD primarily and included coffee, tinned fish, rice and noodles. Some of these items were not consistent with the IPs’ culture. The IPs were never consulted regarding their preferences or how these items may impact on their traditions. Despite this, they state that they were very happy for the contributions, although they would have appreciated more food aid in exchange for NFIs. Due to this lack of consultation, for example, the Sama Bajau were found to be selling their NFIs in order to sustain their food needs.

79 NCIP Administrative Order No. 1, 4 (d).
81 Sphere Standards, Principle 2.
82 OCHA, Typhoon Haiyan Response, 29 November 2013.
• The IPs also received seeds, which included many plants the IPs had never grown. However, it is noted by UNHCR that it was not communicated to the IPs that the food aid would extend only for a limited period of time. Therefore, the IPs did not plan for this and thus did not plant their seeds in preparation there for. In this way it could be said that their culture of self-reliance was interrupted due to a lack of communication, a subject discussed further below.

• With regard to the delivery of aid, the IPs were not prioritized in the early stages of the response and thus, did not receive aid for sometimes many months into the response. Therefore, the timeliness of the response was inconsistent with international standards.

• An example of the cross-cutting affect of the latter three points: interruption of IP culture, consultation and timeliness, is here exhibited. One community in the immediate aftermath had the following experience: a) they were told to move closer to urbanization to access aid; b) they did not receive shelter assistance, however, in accordance with tradition the immediately built homes at the new location; c) they received tents some months later, despite having built homes; believing them to be better than their houses they moved into the tents and left their houses, which need constant upkeep, fall into disrepair, only to find the tents too hot and uncomfortable, and their houses in need of rebuilding.

• The IPs also suffered discrimination in the humanitarian response. The key types of discrimination that arose as a direct result of the Haiyan response are here exhibited with examples:
  a. Ethnic: While the mayor of Isabel works to improve local perception of the Sama Bajau, the prevailing attitude in the locality toward the IP community is negative. The Mamanwa interact less with general society. However, due to their ethnicity they are entitled to IP identification. They have tried to regain this as it helps their access to services, however they have been told that they do not need it as people only need look at them to know they are entitled.
  b. Political: When aid was given to the barangay as opposed to the beneficiaries directly, the communities noticed that they did not always receive the aid in equity with other local residents who were perceived to be affiliated with local leaders.
  c. Geographical: The Mamanwa are in isolated locations, as is their tradition. For humanitarian assistance the communities were obliged to come down to the barangay proper. This does not promote equality as there may be members who are elderly or disabled who cannot do so. A positive example of how humanitarian aid distribution can be equitable is when the mayor of Burauen coordinated with agencies to collate aid for the Kagbana community and in partnership with the Air Force had the goods airlifted to the IPs. Here the mayor took the special circumstances of the community into consideration in planning distribution to ensure non-discrimination.
  d. Social: The IPs experienced discrimination based on what the surrounding community perceived as favouritism when extra goods were given to the IPs.
  e. Cultural: At no stage were the IPs conferred regarding the types of aid they received, and whether or not it was consistent with their traditions. For example the food items they received contained coffee, which they are not accustomed to. While the communities do not believe it would impact on their traditions, they did state that they would prefer to be consulted as not all items may be as harmless.

• However, perennial issues such as a lack of a local community support system or network, discrimination, HLP issues, access to information for IPs, and for agencies (regarding the IPs, their whereabouts, demographics and needs) further exacerbated this discrimination. Thus, weak infrastructural support also, among other factors, resulted in IPs being unable to assert their rights.
Recommendations

• Once again the overriding concerns relate to discrimination, lack of information, consultation, and HLP. The government is strongly encouraged to address these issues immediately to increase IP protection in future humanitarian responses.

• The government is encouraged to increase the capacity of DSWD RVIII and NCIP such that IPs have the institutional support to assert their rights.

• Timeliness in a humanitarian response is imperative to ensuring foundational principles of international law including the right to life and health. Up until now that has been inhibited by lack of information on IP whereabouts, for example. For this reason, DSWD’s new database of disaggregated data on IPs is an extremely welcome tool. All agencies are to ensure that they implement timely responses for the most vulnerable. For example, now that IP location is known, food aid for IPs in traditional evacuation shelters should be ready for immediate deployment.

• The use of the RBA and/or AGD is necessary for the identification of the most vulnerable among the internally displaced. Agencies are urged to ensure when undertaking initial assessments that they have considered all members of the population and identified the truly most vulnerable. This is also imperative in ensuring timeliness.

• Inclusion of IPs in post-disaster relief planning, among other subjects such as DRR and preparedness, is also imperative to an equitable humanitarian disaster response. All agencies are encouraged to ensure that items distributed are chosen based on IP participation. In preparation for future responses, it is advised that the NCIP and DSWD undertake dialogues with IPs on what those items might be such that humanitarian organizations can quickly access that information.

• Open and continuous communication is imperative to ensure IPs understand the operations, the items available, how to access them and how long the response will last. All agencies are accountable for implementing communication of their operations with the communities wherein they operate.

• Again there is a need for continuous sensitization of all actors and the local population to the plight and rights of IPs, and the promotion of a rights-based approach (RBA), such that in accordance with Principle 2 of the Sphere, actors can: “ensure access to impartial assistance”.

• Advocacy on the needs of IPs is paramount to their access to humanitarian assistance.
Access to Basic Services: Health

Health is an inalienable right guaranteed across the spectrum of international human rights conventions.

In the remote areas where governments do not invest in basic social services IPs often suffer from exclusion and discrimination from, and lack of access to, health services. If the health rights of indigenous peoples are at risk in “normal” times, their vulnerability will be exacerbated in disaster situations where underlying disaster risks have not been addressed. Access to health services, which for many indigenous communities is already challenging, can become even more difficult following a disaster, when increased demand, and often preventable damage to transport infrastructure and health facilities, can compound the challenges. Other disaster-related health risks that may disproportionately affect IPs include outbreaks of infectious diseases, increases in vector-borne disease, and a lack of safe drinking water and of access to adequate sanitation. It is also worth pointing out that the health security systems of indigenous communities are linked to the health of their forest and ecosystem. The declining population of medicinal herbs and the destruction of their habitats constitute another source of increasing vulnerabilities and health risk.

In the Philippines, social service provision in indigenous territories is far below that of the rest of the country. The general health of indigenous peoples is below the national average. Indigenous peoples experience seasonal to chronic food shortages during the year, leading to health risks such as low immunity and nutritional deficits. A major contributing factor thereto is, yet again, ongoing HLP issues.83

Findings

- Of the eight targeted communities, all except the Sama Bajau are located in remote areas, from a 40 minute walk (no road access) from the barangay proper (Bagacay), to a very rough 22km road that the IPs do not have vehicles to navigate (KM 22), to a 6 hour hike and climb up and down steep mountainsides and through eleven rivers (Burauen). This has posed a challenge for IPs in accessing humanitarian assistance, and basic services including schools and health services.

- While Bagacay is a 40-minute walk from a health centre, the community states that it lacks capacity. As a result the community is forced at times to go to Tacloban, which requires taking public transport, a cost they cannot afford. Thus, the services that are in place lack capacity to operate cohesively.

- Education on the need for protection of pre- and post-natal mothers is lacking within communities. During the Haiyan operations promotion of this was not undertaken such that lactating mothers were sacrificing food, as were all adults, in order to ensure children had sufficient amounts. However, government programmes through DSWD aim to change this.

- WASH facilities within all communities are lacking. The Mamanwa and Mamanwa-Manobo practice open defecation in the forests, while the Sama Bajau do likewise in the sea. The communities have had no education on the health impacts thereof, and state they have no interest in accessing, nor were they offered, facilities; despite the community surrounding the Sama Bajau being offered them.

- The communities have access to water, and even after the impact of Haiyan, access was available. However, due to the storage methods of water, there was an outbreak of dengue wherein, in one community, eight children came down with dengue in one month, and one child died.84

- Across a number of communities there was an outbreak of measles. Despite offers of immunization drives, humanitarian actor states that they were discouraged from undertaking the mission due to “unfavourable politics”. Other organizations state that access to communities discouraged their undertaking of immunization.85

- Communities also stated that when they had been able to access medical help, since Haiyan, the medications prescribed were never in stock.

- Within the communities there are traditional methods of health maintenance. For symptoms of measles the Mamanwa rub ashes on the neck and chest of the patient and administer herbal tea orally.

---

83 Country Technical Notes.
84 Report from Radyo Abante via Accountability to Affected Populations / Communicating with Communities (AAP/CwC) Working Group, September 2014.
85 Reports via Accountability to Affected Populations / Communicating with Communities (AAP/CwC) Working Group, September 2014.
• Documentation was not, and has not since, been restored to IPs. As a result they are being denied their rightful access as IPs to monetary support in accessing health services.

Recommendations

• The DSWD offers a programme that provides live-in teachers for communities or a teacher that will visit the communities a number of days a week. Considering their specific educational needs regarding traditional knowledge and the age/grade level disparity, it is urged that this project is launched among the RVIII communities, most particularly the Mamanwa.

• The elements blocking children’s attendance within the community need to be addressed, for example, children having to work. The new DSWD $Ps programme breaches this issue, but it is encouraged that it is followed up such that a solution comes about as quickly as possible.

• Services that are supplied are to be maintained as a matter of utmost importance, for example, schools must be continuously manned with teachers.
Access to Basic Services: Education

The Right to Education finds that States Parties shall recognize the right of the child to education, and with a view to achieving this right progressively and in the basis of equal opportunity, they shall, in particular:

- make primary education compulsory and available free to all;
- encourage the development of different forms of secondary education, including general and vocational education,
- make them available and accessible to every child, and
- take appropriate measures such as the introduction of free education and offering financial assistance in case of need.\(^{86}\)

Likewise, according to the IASC:

> the return of children, whether displaced or not, to schooling should be facilitated as early and as quickly as possible after the disaster. Education should respect their cultural identity, language and tradition.\(^{87}\) [And] Measures should be taken to ensure that education is not disrupted at higher levels when students, as a consequence of the disaster, can no longer afford such education.\(^{88}\)

Access to education is paramount to the development and protection of children, in all areas of their lives. The importance of education, for example, as a tool for disaster risk reduction is recognized in the Hyogo Framework for Action, which identified the use of knowledge, innovation and education to build a culture of safety and resilience at all levels as one of its key priorities for the period from 2005 to 2015.\(^{89}\) In the Philippines, DRR is already encapsulated in the education system.

In line with article 14 of the UNDRIP, it must be ensured that the communities are offered the choice of access to mainstream education or education that is in line with their cultures and traditions, and taught in their languages. Similarly, all efforts must be made to ensure vulnerabilities such as ethnicity and language are not further exacerbated.

Findings

- As above mentioned in the findings for health, the IP communities tend to be located in isolated locations, far from services.
- Lack of access to basic services, a direct result of HLP issues including continuous displacement, is endemic among IP communities. The three communities at Burauen, Bagacay and Isabel have had ongoing access to the same mainstream elementary schools pre- and post-Haiyan, and the children at Wispal have had access pre- and post-Haiyan to two different mainstream elementary schools. Meanwhile, the children at KM 16 have never been to school, while those at KM 22 have had access to grades 1 to 3, but since June 2013 there is no teacher.
- The IPs at Isabel and Bagacay are the only communities to have access to high schools, although for the latter this entails transport costs that they can ill-afford. At KM 22 one high school age child (13 year old) is attending school 22 km away at Tinabanan and staying with a local there. However, she is still only in grade three due to the lack of access to education she has suffered.
- At the IP workshop held by UNCHCR, NCIP and DSWD, it was highlighted that not all of the children with access to education partake. The reasons include: bullying, discrimination, and having to work with their parents.
- The Sama Bajau in Isabel have two students who have reached university level, one of whom has graduated as a teacher. They believe their living in an urban area catalysed this situation. However, for the Mamanwa this would be a direct contradiction of their culture.
- To highlight the interconnectedness of all rights: by undermining the right to education, the IPs’ right to development is being violated. This will have a direct affect on their rights to livelihood, food security, and many others.

---

86 CRC, art. 28.
87 IASC C.1.1
88 IASC C.1.2
• DSWD has launched a new 4Ps programme, tailored specifically to the needs of IPs. Therein, they hope to identify the gaps and challenges the communities face in accessing services and help them to overcome them. However, this entails children joining the mainstream system.

Recommendations

• NCIP must restore documentation as quickly as possible to IPs such that they can assert their rights to access to health services and the help of PhilHealth in the funding thereof.
• The DSWD and/or the Department of Health (DoH) is encouraged to implement a roving medical officer who will visit IP communities number of times a month, while remaining respectful of the traditional health practices of IPs.
• DoH is encouraged to undertake an immunization drive among the IP communities in emergency responses, most particularly.
• DoH is urged to ensure all facilities in IP areas are properly operating and stocked, both in normal and emergency times.
• All agencies are to ensure the specific needs of the most vulnerable are met, this includes those supplying WASH, for example.
**Documentation**

*Appropriate measures should be taken as early as possible, including during the emergency phase, to restore personal documentation that has been lost or destroyed in a natural disaster, to persons affected by the natural disaster (e.g. birth, marriage and death certificates, insurance certificates, passports, personal identification and travel documents, education and health certificates).*

The right to documentation is attributed to all persons given that it is also a means of protecting other rights. For example, without documents to prove identity, people may be unable to access health care, education and other social services. A lack of legal provisions to quickly and smoothly replace personal documents such as birth certificates or other identification documents will impact how all people access existing services and rebuild their lives. According to UNICEF, birth registration is “fundamental to the realization of children’s rights and practical needs” including the right to a name and nationality guaranteed under the Convention on the Rights of the Child. NCIP is the office mandated to, and the only office with authority to, fulfill IPs’ rights to documentation.

**Findings**

An example of how such challenges can be appropriately dealt with comes from Sri Lanka, where shortly after the Tsunami regional offices of the Sri Lanka Human Rights Commission have worked with local administrative officials to develop mobile teams to process IDPs’ requests for replacement documentation.

- While only few members had their official IP documentation pre-Haiyan, post-Haiyan all are without such identification. UNHCR witnessed a four-year old rejected medical financial assistance due to a lack of identification proving his IP status. The hospital would only agree to waive fees once NCIP had corroborated, from Cebu, to issue the family the relevant documents. This highlights two issues: A)
  a. That without IP identification IPs are being blocked from potentially life-saving services that they cannot otherwise afford;
  b. The system in place for the IPs to attain this documentation is difficult, given that only NCIP, which has no office in RVIII, may issue it.

- Further exacerbating the latter, and thus the former, is the allegation from a community leader, that when they requested help in attaining documentation they were told: “You do not need documentation as people will look at you and know straight away that you are IPs”.

- Some agencies undertook to provide mobile registration of individuals. UNHCR, being one, helped the Sama Bajau and the Mamanwa-Manobo to assert their documentation rights.

---

90 IASC, D.1.2
91 CRC, art. 7.
Recommendations

- The government is encouraged to redraft legislation such that DSWD has the power to issue documentation to IPs in RVIII.
- NCIP is urged, in accordance with international law and guidelines, to provide IPs with all legal documentation as soon as possible and immediately after each disaster has struck, as needed.
- Sensitisation of all agencies’ staff is recommended to ensure a deep understanding of IP rights and freedoms is held.
- Humanitarian organizations undertaking documentation projects are to ensure that they capture the most vulnerable candidates such as the IPs.
Access to sustainable livelihoods for both women and men is now widely recognized as a key element of protection in the context of displacement, and is critical to ensuring durable solutions for IDPs.  

Where individuals are unable to return to precious sources of livelihood due to the natural disaster, appropriate measures – including provision of re-training opportunities or micro-credits – should be taken.

One of the biggest protection gaps in natural disaster responses has been found to be in the implementation of the rights to access to work and livelihoods. This has resulted in previous disaster victims remaining dependent on handouts several years after the disaster, despite having been independent earners prior to the disaster. As with each issue here highlighted there are knock-on affects. For example, one that has been emphasized is that when parents lack livelihoods after disasters, there is an increase in domestic violence against children, of child exploitation and of gender-based violence. Likewise, when the livelihood is insufficient, parents may be forced to have their children work. While not all work performed by children is considered detrimental to a child’s wellbeing or illegal the “light work” permitted is not allowed to interfere with school attendance.

IP’s livelihoods are entirely dependent on agriculture and the biodiversity of natural resources, entities that are particularly sensitive to climate change. Thus, IPs may face lower agricultural productivity and reduced access to food and other materials collected from the natural environment in natural disasters. Their economy, social organization, identity, and cultural and spiritual values can likewise be adversely affected. Indigenous peoples in rural areas may be impacted more severely. Rural populations face difficulties with communications, a lack of access to government and financial institutions, and fewer opportunities to make a living, which further exacerbate their abilities to provide for their families.

Findings

- Livelihood is identified to be an urgent need of the Mamanwa. The Mamanwa and Manobo-Mamanwa communities traditionally farm in the mountains in very low levels of socioeconomic development. They tend to engage in swidden farming in mountain slopes, sedentary agriculture of primarily root crops, rice and vegetables, foraging for uway in the forests to sell, and if required, other occasional or seasonal labour. All four Mamanwa/Manobo communities visited report that while there is still access to subsistence farming it is on a much reduced scale in comparison to their expressed need and to levels pre-Haiyan, which also did not always meet their need. The main contributing, interconnected, and often simultaneously exacerbating factors at KM 22 and KM 16 are: HLP issues, no security of land tenure; displacement, new sites have less farming space as the communities have been forced to gravitational toward urbanized areas; and lack of aid, particularly seeds. While, at Wispal and Bagacay, the communities have maintained their places of farming and thus both refer to land clearance and humanitarian aid as impacting factors.

- The Sama Badjau report there is no access to their former livelihood of coastal fishing as all equipment was destroyed and has not yet been replaced. This has led to serious concerns relating to food security such that the community has, as recently as October 2014, resorted to selling non-food relief goods in order to subsist. The community is centrally located in the town and the Mayor emphasizes they are always active to try to find other means of employment. However, they suffer discrimination which hampers these attempts. The Sama Bajau also mentioned they engage in the trading of second hand clothes at the local markets.

- Seeds have been distributed by DSWD to the Mamanwa/Manobo communities to help them maintain a state of subsistence relevant to their former livelihoods, but they state they did not receive enough. Also due to lack of information on when food aid would end, the communities did not plant their seeds on time in preparation for when the handouts would begin to phase out.

- No organizations approached the communities to discuss livelihoods or livelihoods programmes, despite their consistent requests there for, which were fed into the cluster system.


93 IASC C.4.2

94 A/HRC/23/44.

95 ILO Convention 138 (1973), Art. 7; UNICEF, Child Protection Information Sheets, no. 8. (under international law and children can undertake “light work” such as helping their parents in the home, family farm or family business as long as children are over the age of 12, the hours are limited, such work is not dangerous and it does not interfere with school attendance or normal childhood activities); UNICEF, Child Protection Handbook, no.6, p 140; 1973 ILO Convention 138 and the 1999 ILO Convention 182; IASC A.3.3.

Recommendations

• Appropriate measures should be taken as early and as quickly as possible to protect IPs from resorting to negative or illicit forms of livelihoods, such as child labour, trafficking, sale into marriage, or prostitution, in accordance with IASC A.3.3.

• HLP issues must be tackled head on by NCIP and DSWD in order to help secure the livelihoods of all IPs.

• All agencies are encouraged to coordinate to help the Sama Bajau build up their fleet of boats again.

• All agencies are to ensure the prioritisation of IPs for post-disaster livelihoods programmes, and that those programmes are mindful of IPs cultures and practices.
Disaster Risk Reduction

Indigenous communities hold time-tested knowledge and coping practices developed through their intimate connection with their natural surroundings that make them resilient to climate-related natural hazards and disasters. This knowledge is a living practice, which can adapt in response to changing circumstances. Indigenous knowledge

*includes an understanding of the relationships between indigenous societies and nature, which have been tested by time and proven to be sustainable and successful in limiting the effects of hazards.*\(^{97}\)

This is a wisdom that has protected them for thousands of years, and knowledge that may well help the world’s general population too.

While universal human rights treaties do not refer specifically to disaster risk reduction, nor to a specific right to a safe and healthy environment (one of the expected outcomes of disaster risk reduction), the United Nations human rights treaty bodies all recognize the intrinsic link between the environment and the realization of a range of human rights, such as the right to life, to health, to food, to water, and to housing.\(^{98}\) Disaster risk reduction can contribute significantly to the promotion and protection of these human rights. The Human Rights Council expresses concern at the internal displacement caused by natural disasters, exacerbated by the expected effects of climate change and by poverty, and recognizes the need for a human rights-based approach to disaster risk reduction, early warning, disaster contingency planning, disaster management and mitigation, as well as recovery efforts, to find durable solutions.\(^{99}\) While, in their concluding observations, some treaty bodies have referred to disaster risk reduction with implications for IPs,\(^{100}\) the Special Rapporteur on the right to food recommended, for example, that Nicaragua put in place a rapid alert system in order to “protect indigenous peoples from the impacts of weather-related events” and support them in making their food systems more resilient in the face of climate change.\(^{101}\)

Before a natural disaster materialises, it exists as a natural hazard. Whether or not natural hazards become disasters depends on the exposure of a community, and its vulnerability and resilience, factors that can be addressed by human action.\(^{102}\) A failure by States to take reasonable preventive action to reduce exposure and vulnerability and to enhance resilience, as well as to provide effective mitigation, is therefore a human rights issue.

*Research of 15 countries practices found that preventing displacement is the most important step that a government can take in exercising its responsibility to protect internally displaced persons. Yet it also is probably the most difficult and the least likely to be taken, both by national authorities and by the international community.*\(^{103}\)

The principle of prevention, including through risk reduction, was reaffirmed in the Hyogo Declaration\(^{104}\) (HFA ten-year plan (2005–2015)). While the HFA makes no specific reference to indigenous peoples, it recognizes the role of traditional knowledge and cultural heritage. Furthermore, the UN General Assembly adopted a study and advice on the promotion and protection of the rights of indigenous peoples in DRR by the Expert Mechanism on the Rights of IPs.\(^{105}\) The study applies the UNDRIP to the principles of DRR and finds that articles: 3 and 4 (self-determination); 18 (participate in decision-making); 19 and 32 (free, prior and informed

---

\(^{97}\) UN Permanent Forum on Indigenous Issues, *Study on engaging indigenous peoples more inclusively in the process of disaster risk reduction by respecting linguistic and cultural practices of indigenous peoples known to be at risk*, E/C.19/2013/14, para. 39


\(^{100}\) See, for example, the concluding observations for Djibouti (CRC/C/DJI/CO/2, para. 63 (h)), Democratic People’s Republic of Korea (CCPR/CO/72/PRK, para. 12), Indonesia (CEDAW/C/IND/CO/5, para. 39), Grenada (CEDAW/C/GRD/CO/1-5, para. 36 (b)), Jamaica (CEDAW/C/JAM/CO/6-7, para. 32 (b)), Tuvalu (CEDAW/C/TUV/CO/2, para. 56).

\(^{101}\) Guatemala, A/HRC/13/33/Add.3, para. 83 (h).

\(^{102}\) The Chengdu Declaration for Action lays out the premise that there is no such thing as “natural disasters”. Natural hazards — floods, earthquakes, landslides and storms — become disasters as a result of human and societal vulnerability and exposure, which can be addressed by decisive policies and actions and active participation by local stakeholders; Hyogo Framework.

\(^{103}\) See recommendations for international agencies, NGOs and government authorities to address this gap in Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons*, Jun 2010.

\(^{104}\) Hyogo Framework.

“indigenous peoples are entitled to participate in disaster risk reduction processes and that States have the obligation to consult with them and to seek to obtain their free, prior and informed consent concerning risk reduction measures [...] and that disaster risk reduction is more likely to be successful if indigenous decision-making processes and traditional knowledge are respected.”

Furthermore, the United Nations is coordinating the post-2015 successor mechanism: HFA2, wherein it has been noted that the:

HFA2 needs to enable and encourage full participation of people disproportionately affected by disasters and should embody the [...] perspectives of the most vulnerable [including] the perspectives of indigenous women, children, and persons with disabilities, since multiple discrimination often means that their views are not taken into account.

In addition, many treaty bodies have referred to disaster risk reduction from a human rights perspective with implications for IPs.

In line with, and in furtherance of, these principles, the Philippine government introduced landmark legislation to protect its citizens: the 2009 Climate Change Act and the 2010 Philippine National Disaster Risk Reduction and Management Act (DRRM Act). The DRR Act promotes DRR management through multi-stakeholder participative implementation of “sustainable development and poverty reduction strategies, policies, plans and budgets.”

Therein, “sustainable development” is defined as development that meets the “essential needs of the world’s poor, to which overriding priority should be given” and encompasses both sciences and technology with “sensitivity to indigenous knowledge systems” in its achievement. Local IP Knowledge (LINKs) systems include predictive measures through the observation of plants, animals, winds and the skies. Example of incidents that predict torrential rains and typhoons in the Philippines include: unrest of fish, including domesticated fish, for example spitting of food, absence of appetite, restlessness; ants crawling upward; stingray jumping out of the water in summer; or ducks flying high at a distance.

Once again this right is intricately linked with all other rights. Vulnerability will determine and contribute to a community’s preparedness, or lack thereof and their susceptibility to:

"the damaging effects of a hazard such as physical, social, economic, and environmental factors including poor design and construction of buildings, inadequate protection of assets, lack of public information and awareness, limited official recognition of risks and preparedness measures, and disregard for wise environmental management."

---

106 Hyogo Framework.


109 See, for example, the concluding observations for Djibouti (CRC/C/DJI/CO/2, para. 63 (h)), Democratic People’s Republic of Korea (CCPR/CO/72/PRK, para. 12), Indonesia (CEDAW/C/IDN/CO/5, para. 39), Grenada (CEDAW/C/GRD/CO/1-5, para. 36 (b)), Jamaica (CEDAW/C/JAM/CO/6-7, para. 32 (b)), Tuvalu (CEDAW/C/TUV/CO/2, para. 56).


111 2010 Philippine National Disaster Risk Reduction and Management Act, (DRRM Act, 2010), Sec. 2(a), (b), (c) and (d), Republic Act of the Philippines No. 10121. Available at: http://www.ifrc.org/docs/idrl/878EN.pdf. (Hereafter: DRRM Act 2010)

112 DRRM Act, 2010, Sec. 2(a), (b), (c) and (d), REPUBLIC ACT of the Philippines, No. 10121. Available at: http://www.ifrc.org/docs/idrl/878EN.pdf.

113 Ibid., Sec. 2(mm.).

114 Ibid., Sec. 2(j).


116 DRRM Act, 2010, Sec. 2(nn.) and (oo.).
Findings

- At no stage were DRR principles or strategies discussed with the IPs. 100% used their own traditional knowledge to identify the oncoming supertyphoon, however, none predicted the strength. The community at Bagacay, for example, cited hearing a “silence” in the mountains lasting three minutes at four intervals in the same day, three days prior to Haiyan. They also had noted that there was a particular wind blowing around that time.

- While the Sama Bajau availed of a local evacuation centre, they entered it earlier than the general population due to their IP knowledge. The Mamanwa and Mamanwa-Manobo used traditional evacuation methods. 100% of all IPs survived with zero casualties.

- All communities are hesitant to discuss their traditional methods fearing they will be ridiculed at the very least. All communities also stated that their local indigenous knowledge (LINK) is not as extensive as their parents and older generations will have been.

- While DRR practices are improving among general populations, challenges persist in the implementation of DRR laws and procedures at the local level such that the IP community is not aware of the existence of this legislation. A lack of capacity and political will have been highlighted as contributing factors.\(^\text{117}\)

- Positive initiatives the DRRM Act promotes are the granting of “no-interest loans by government financing or lending institutions to the most affected section of the population through their cooperatives or people’s organisations”\(^\text{118}\)

\(^{117}\) Fatima Molina, Presentation for the Workshop for the Specific Needs of IPs in Typhoon Haiyan, Centre for Disaster Preparedness, 29 Oct 2014.

\(^{118}\) DRRRM Act, 2010, Sec. 17(d). Available at: http://www.ifrc.org/docs/idrl/878EN.pdf
Recommendations

• There is the clear indication that LINK is in danger of extinction. Governments are recommended to implement a strategy to help preserve LINK, most particularly for the creation of effective DRR and Climate Change Adaption (CCA) plans.

• With respect to the difficulties involved in identifying practical steps for implementation, it is important that the government, together with indigenous peoples, carry out strategic planning, develop monitoring mechanisms and indicators, and identify what has worked and try to replicate successful experiences.

• Prioritisation of IPs’ presence in DRR discussions is imperative from the local level up to the national level. NCIP and DSWD should facilitate this through the creation of local level dialogues on DRR with IPs, right up to the inclusion of IP representatives on national decision boards.

• The government is urged to assert recognition and integration of customary IP laws in local ordinances on disaster risk reduction to further secure IP rights to DRR.

• All agencies are recommended to develop an understanding of LINK and implement applicable techniques in their programmes involving IPs, and where relevant, the general population.

• An important contributing factor to improved IP involvement would be if LGUs had access to comprehensive information about local IP knowledge (LINK), its validity, and the value it can contribute to society’s DRR and preparedness plans. Therefore, the government is recommended to build this capacity within LGUs.
Accountability to Affected Populations / Communicating with Communities / Participation / Access to Information

NCIP’s Administrative Order No. 1 on the rules for implementing the IPRA states that:

In the pursuit of civil, political, economic, social and cultural development, the human person shall be the central subject thereof and its active participant and beneficiary.  

Integral to keeping the human persons central to all activities is free, prior and informed consent, which means:

The consensus of all members of the IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of an activity, in a language and process understandable to the community.

Accountability to Affected Populations (AAP), Communication with Communities (CwC), access to information, and participation are all centered around information-sharing and communication. These concepts help to crystalise the principles above quoted from NCIP’s order. Information and two-way communications are themselves a form of humanitarian aid, prerequisites for resilience and recovery.

From the outset of Haiyan operations, the Humanitarian Coordinator has highlighted that the affected population are the “primary stakeholders” of the humanitarian response. Thus, all contributing agencies are accountable to the affected population. The SRP ensures this accountability by advocating for agencies to exercise a rights-based approach in all response activities. A rights-based approach in the context of AAP/CwC relates to upholding ethical communication methods, but also ensuring access to information to, and inclusive participation of, the affected population such that they may make informed decisions about their present and future lives. Therein, the differing needs, challenges and expectations of IPs is emphasized reminding all responding agencies that strong engagement with, and accountable systems for, all segments of the affected community are required. This is to ensure that humanitarian actors are not inadvertently reinforcing social systems of exclusion; are being accountable for occurrences of abuse or corruption as perpetrated by their staff, and are promoting equal access to information on assistance, and participation in the planning for recovery and resilience.

These principles of information-sharing and communication are as much interconnected with one another as they are with those of non-discrimination and HLP issues in that the former can both be exacerbated by, and exacerbate, the latter. As above-mentioned, the explicit expectation from non-discrimination is the ability to exact self-determination, for which these information-sharing rights are required. Likewise, UNHCR and the United Nations Committee on Economic, Social and Cultural Rights highlight the interconnectedness between information-sharing, communication and HLP:

“[A] common protection concern [is] the lack of adequate consultation with affected communities, and the inconsistent provision of information about planning and response efforts.”  
Likewise, “the full enjoyment of other rights such as [...] the right to participate in public decision-making – is indispensable if the right to adequate housing is to be realized and maintained by all groups in society.”

Findings

• Prior to Haiyan, the only IP communities that had external warning of the incumbent typhoon were the IPs at Bagacay and Isabel. They received the information from the community network around them and through their children’s interactions at school. The other communities did not have access to external information, for example from the LGU.


120 Ibid., Rule II, Section 1 (j).

121 UN Declaration on the Rights of Persons Belonging to National or Ethnic Minorities, resolution 47/135, 1992, Art. 2


123 The Right to Adequate Housing (n 14) p 9; International Law and Standards.
The following typhoon, Glenda, came without warning also to those communities. However, use of the principles of information-sharing has already improved preparedness of IPs in the run up to typhoon Hagupit whereby each community now has access to a radio and is in direct cellphone contact with DSWD, thus they have access to information on the exact nature of the possible disaster, in languages they understand.

- In the aftermath of Haiyan, communities reported that while some barangay officials were very helpful and gave timely information on relief deliveries for their collection, others were less honest. Also, agencies that offered assistance to the IPs interacted very little with them. The IPs state that they were never consulted regarding relief goods’ quality, cultural sensitivity, or relevance. Neither were they asked for input on DRR practices that could be implemented, nor included in local DRR plans. Likewise, while housing assistance was undertaken in Marabut and Burauen whereby approximately 30% of all the households received assistance, the level of participation and engagement with the communities was poor. For example, beneficiary lists were created without the IPs’ input; lists were never discussed with or explained to the communities, and common practices such as participatory selection of beneficiaries were not exercised. As a result, families neither understood why they had or had not been selected which created tension and increased feelings of discrimination and prejudice within communities.

- The affected IPs unanimously agreed that they had little to no access to information regarding humanitarian activities and plans, neither from government partners nor humanitarian agencies. This may be somewhat attributed to their HLP issues, i.e. continuous displacement and isolated locations, which have lead to a lack of information on their exact whereabouts and numbers, as well as to discrimination. The following example exhibits this, as well as a lack of appreciation for cultural sensitivity and ethics in communication: One IP community states that when it asked for assistance in accessing information about, or actual, humanitarian assistance, one community was encouraged to “relocate closer to urban areas so as to increase your chances of receiving humanitarian assistance”.

- UNHCR in partnership with CFSI implemented protection monitoring through field visits and information-sharing in the Cluster system to allow for protection issues and complaints of IPs to be reported, while DSWD also made quite regular visits to the IPs. NCIP visited the Mamanwa and Manobo-Mamanwa communities just once each after Haiyan and the Sama Badjau three times. However, the IPs do not feel they had adequate access to information about, or access to, proper procedures for redress of complaints, for example, for HLP concerns both perennial and fresh. Nor do they believe that all agencies were being entirely accountable to them as IPs.

- The Special Representative on the human rights of IDPs observed that governments are often content to let other agencies consult with the affected population and channel their concerns to the authorities in whatever way they see fit. Without a concrete and specific referral pathway to increase information-sharing and communication around protection concerns, with the capacity to find solutions there for, concerns are less likely to be integrated into the disaster response. For example:

UNHCR was part of the initial disaster response coordinating team as co-lead of the Protection Cluster. However, IPs’ protection concerns only became apparent as the Protection Cluster was first dissolved in the process of the government taking over the former IASC Cluster system. Therefore, there was no longer a formal platform to communicate IP protection concerns to all agencies. The result was humanitarian organizations became less likely to hear about IP protection concerns and thus less likely to tackle them. While all IP protection issues continued to be fed through to DSWD, and thus down to the municipal offices and LGU’s, a lack of budgetary and human resources and weak understanding of the rights of IPs resulted in slow or low-levels of resolution. IPs continue to be discriminated against in access to the principles of information-sharing and communication, AAP, CwC, access to information and participation, without accountability or routes thereto.

- This emphasizes the importance of continuous vertical communication from field level right up to top agency management and Cluster levels and back down again to the community, and horizontally across all stakeholder agencies. However, in a positive and accountable move, the government reinstated the Protection Cluster some weeks later.

---

124 IASC I.2 (a)

125 A/HRC/10/13/Add.1, 36 and 37.
Recommendations

- Gathering solid information through monitoring and consultations with indigenous persons and LGUs, NGOs and interlocutors; is imperative to effective IP protection in natural disasters. Thereby, in disaster responses, the government is to ensure that there is an official platform, for all agencies to exchange protection issues and other information found in the field such that other agencies may attempt to tackle them. Examples of such platforms are the protection cluster and the AAP/CwC working group, which have been very successful in finding and sharing issues, and initiating solutions.

- All agencies are encouraged to ensure that they have a clear understanding of the rights-based approach and AGD approaches, remembering that refreshment of ethical and accountable methods of communication are paramount to a successful operation.

- Interacting with IPs has highlighted how very weak AAP/CwC is among all agencies, except DSWD. This has led to incredible suffering among the most vulnerable, to whom we are in service. Agencies must ensure to keep abreast of ethical behavior of all employees, and to provide regular training of staff both refreshing skills of communication and accountability, and developing new skills as they emerge.

- For agencies there is a need for increased visibility of hotline numbers at field level.

- Education and advocacy on the rights of IPs is necessary for all members of the local population, and all agencies’ staff. This may be undertaken through AAP whereby agencies account for IPs getting what may be perceived as preference in distribution of relief by explaining to others why this is. Likewise, greater understanding will help to reduce discrimination and encourage information-sharing and communication among the general population and all agencies towards IPs and vice versa.
CONCLUSION

This comprehensive examination undertaken by UNHCR Philippines exhibits the serious protection concerns of IPs in natural disasters. Therein, it displays how a multitude of protection concerns are encountered by the IPs, and most particularly the abuse of non-Discrimination, Participation and Housing, Land and Property (HLP) rights continues to exacerbate the IPs access to every other right, including access to services, livelihoods and DRR. These are perennial issues, however, their existence drastically increased the vulnerability of IPs in supertyphoon Haiyan. Thereby, all rights interconnectedness cannot be denied. Thus, by dealing with one risk, another may be somehow alleviated, or by not dealing therewith another may be exacerbated. As Volker Turk, UNHCR’s Director of International Protection, stated:

If these critical protection issues are overlooked, pre-existing vulnerabilities and patterns of discrimination are and will be exacerbated with terrible consequences.

The cross-cutting element mentioned as being a relevant factor is particularly manifest in rights such as discrimination, HLP and participation which arise repeatedly as exacerbating factors of almost every other right. Thereby, the exceptional vulnerability of IPs in RVIII is overtly clear. The following are the recommendations that are the most cross-cutting:

The main recommendations for the national government relate to NCIP and DSWD RVIII and helping those agencies to increase their capacities. These agencies play pertinent roles in forwarding the protection of IPs. While the are working hard, they are in need of increased funding and human resources such that the IPs of RVIII begin to treatment not just equal to IPs in other regions but equal to the general population.

Likewise, the government is advised to redraft any legislation that is currently contrary to international law. NCIP and DSWD depend on the law to help IPs realize their rights, therefore rightful law is pertinent.

NCIP is encouraged to define its role in RVIII, what its capacities are and what they are not, such that DSWD can create a clearer mandate, and IPs and other agencies have a better understanding of who to interact with for particular issues.

DSWD is urged to continue making improvements in their data collation on IPs, and to assert the rapid and effective implementation of the 4Ps project.

Humanitarian organisations and government partners are all to ensure that staff have a deep and thorough understanding of the rights-based approach in humanitarian relief, and practice it without exception.

All agencies are encouraged to ensure that IPs have equal access to participation in all activities and decisions that affect them.

As leader of the Global Cluster and former co-lead of the Local Protection Cluster and the international agency mandated to ensure the protection of the internally displaced, UNHCR has worked in partnership with DSWD in RVIII to try to alleviate some of the protection issues IPs have here suffered. Mindful of the fact that UNHCR can only work to build or rebuild and strengthen communities to be able to help themselves, and the capacity and accountability of national and local authorities to meet their protection responsibilities; as well as advocate to across the Cluster system the importance of the prioritisation of the most vulnerable in humanitarian relief efforts; UNHCR is encouraged by the work that DSWD RVIII has undertaken in the past year, particularly the IP focused 4Ps programme and the improved database of IP information. Thereby, UNHCR is sure that in future disasters IPs will already be better protected. However, there is still a lot of work to be undertaken by all stakeholders to make the protection of IPs’ rights equitable.

---