

**Presentation - “Gender Inclusive Disaster Risk Reduction Management”**  
**ADB Judicial Conference on Environment and Climate Change Fiji October 2019**  
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**A. Background**

As consultants with the Asian Development Bank (ADB), Dr Mary Picard and I are undertaking an ambitious task, namely to produce a good practice gender inclusive legislative framework to strengthen women’s resilience to climate change and disaster risk. It is a unique project requiring us to focus not only on gender inclusiveness in relation to climate change (CC) and disaster risk reduction (DRM) laws, but also to devise an overall legal framework in order to achieve better outcomes for women at times of disaster and in response to climate change.

This is being undertaken in the context of conducting a gender sensitive analysis of relevant laws in three project countries, Fiji, Lao People's Democratic Republic (Lao PDR) and Mongolia.

This project is just one component of a broader regional project of the ADB<sup>1</sup> which includes analysis of CC and DRM policies as well as labour market analysis of green jobs for women in the three countries. The overall project will be finalised by mid 2020. This presentation will address only the legislative framework of CC and DRM.

**B. What research reveals**

**1. Impact of disasters and climate change on women**

Gender inequality and disadvantage are magnified by disasters and the social disruption of climate change. Improved gender equality in the broader social and economic spheres is also essential to support women’s resilience in the longer term.

**(a) Impact of sudden-onset disasters on women**

Common patterns include; gender differences in rates of death and injury in some contexts, gender-blindness and sex discrimination in access to relief, increases in gender-based violence, and greater impoverishment of women in recovery and reconstruction.

Meta-analysis of reports on disasters in 141 countries found that gender differences in death rates were directly linked to women’s economic and social rights. At the same time, in societies where women and men enjoyed equal rights, there were no significant sex differences in the number of deaths.<sup>2</sup>

Different gender roles in society often mean different disaster impacts on women and men. For example, sex differences in mortality in a number of major disasters in Asia and the Pacific have been attributable to a range of factors related to gendered work roles. Examples being whether people were at home or another workplace, out in the fields, at sea or near the beach, when a tsunami, earthquake or cyclone hit. Some specific factors that have seen worse impacts on women include being in a vulnerable house structure, and carer responsibilities that delay their escape because they stop to rescue children, older family members and family valuables.<sup>3</sup>

Disaster impacts may also be affected by either sex discrimination or ‘gender-blindness’ in the humanitarian response and recovery operations. For example, after the 2015 earthquake in Nepal, women heads of households experienced direct discrimination when local government officials insisted that distribution would be through male heads of household only.<sup>4</sup> Others experienced indirect discrimination through: (a) conditions imposed on them to show marriage and identity

documents that many women did not normally hold; (b) requiring proof of title to marital property they had held with now-deceased husbands, although in that region titles were usually only in the man's name.<sup>5</sup> These discriminatory barriers saw women deprived of urgent relief supplies, and suffering longer-term impoverishment due to loss of their homes and property.<sup>6</sup>

### **(b) Climate change impacts on women**

Climate change is an inherently complex set of phenomena affecting diverse sectors and activities, and operating at timescales that range from short to long term. It includes greater weather extremes in the short term<sup>7</sup> as well as long-term and permanent changes<sup>8</sup>.

Information on gendered impacts of climate change is often hard to gather, in part due to a relatively short period of analysis of climate change trends, but also because it covers such a diverse range of social and economic activity. Climate change adaptation alone can take many forms, from local community initiatives in fishing, agriculture and forestry, to large scale national infrastructure projects and either government-sponsored relocation of communities or spontaneous migration from degraded or inundated land. Both climate adaptation and mitigation<sup>9</sup> have potentially major socio-economic impacts and require concerted action by governments and communities. These actions can open up new opportunities for work and access to resources, but they can also exacerbate existing gender inequalities in power and resources if women are not empowered to participate in decision-making roles.

### **(c) Gender based violence impacts on women**

Gender-based violence is already present in all societies, and it increases when there are shocks such as disasters, or sustained stresses from climate change such as economic hardship or major social disruptions like climate relocation.

A 2015 IFRC study (based on nine country case studies including Bangladesh, Myanmar and Samoa),<sup>10</sup> shed light on what characterizes GBV in disasters, as well as how legal and policy frameworks should be adjusted to address it.

- Domestic violence – present in affected communities before the disaster but increases following sudden-onset disasters and during prolonged disasters such as drought;<sup>11</sup>
- Rape and sexual assault – there were assaults and additional risks in emergency shelter and devastated communities, some of which relate to shelter design and management. Preparation needs to strengthen the capacity of specialist support and justice services to meet the needs of victim/survivors<sup>12</sup>
- Economic drivers - impoverishment due to disasters can increase the risk of GBV, such as – child/early marriage, transactional sex, and trafficking.<sup>13</sup>

A subsequent IFRC global study in 2017 that focused on legislation, concluded that systems for prevention and access to support and justice for GBV survivors tend to be under-resourced in normal times and are not adapted to provide services in emergencies.<sup>14</sup> This is linked to the fact that disaster risk management laws, regulations and procedures have not so far identified sexual and gender-based violence as a priority issue of health and safety.

### **(d) Economic impacts on women**

Women may suffer worse economic impacts from disasters because of the nature of their work, including less economic resources to support their own recovery due to lower starting wages in employment, and their higher participation in the informal economy, with its accompanying lack of access to insurance and recovery finance.

For example, In Fiji Tropical Cyclone Winston (2016) had the greatest direct impact on housing and shelter. Women whose livelihoods were home-based, such as mat and basket weaving, suffered a significant economic set back as a result of the destruction of their homes and raw materials. Micro-enterprises which are agro-based,<sup>15</sup> are precarious forms of livelihood for women as they lack protection of insurance or access to finance, resulting in greater disaster losses and impoverishment due to lack of recovery resources.<sup>16</sup>

In the formal productive sector, again primarily agriculture, while women's overall economic losses in Fiji were lower due to their lower rates of employment and lower wages, at the same time "women are poorer, earn less income, are more dependent on subsistence economies, and, therefore, have fewer options to cope with the disaster impact than their male counterparts."<sup>17</sup>

These adverse effects on women highlight the need to have legislative supports in place prior to climate change and disasters impacting on their lives. We make recommendations on the types of laws which can best support women's economic resilience.

## **2. International norms and national CC and DRM law and women**

### **(a) International Norms –CC and DRM law and women**

Disaster risk, climate change and environmental policy and law-making at the international levels have been largely gender-blind to date. They have historically been treated as technical issues which affect all human persons the same physical way, rather than taking account of the differing socio-economic circumstances of women and men. This means that intergovernmental agreements have provided very little guidance to countries on how to apply a gender analysis to disaster and climate risk management in either national law or policy.

While the United Nations post-2015 agreements on disaster risk and sustainable development now incorporate greater gender awareness, especially through Sustainable Development Goal 5 (SDG5) on gender equality, the Sendai Framework on Disaster Risk Reduction does not provide impetus to act on gender because it does not require gender-disaggregated data in its global targets and monitoring. The Paris Agreement on climate change is almost entirely gender blind, and gender is made part of the mechanisms through policy and action plans alone.

The most useful international norms in relation to this topic and project are the provisions of Convention on the Elimination Against Women (CEDAW) and General Recommendations No 37 (2018) on the gender related dimensions of disaster risk reduction in the context of climate change.

### **(b) CC and DRM National Laws and women**

A similar technical view has dominated national legislation in these areas, especially in environmental protection laws and specific climate change laws, which tend to refer only to the physical environment, not the social. They also often use concepts such as "communities" and "stakeholders" without recognising the impacts of power imbalances and gender inequality on who has decision-making power within communities and stakeholder groups.

Disaster risk management legislation frequently mentions women as a "vulnerable group" but rarely provides opportunities for women to engage in planning, response and reconstruction in numbers or in decision-making roles. Women are excluded from membership of key DRM committees through

indirect discrimination because they are rarely found in the relevant leadership roles specified in the legislation.

While a technical approach to environmental management or disaster response appears gender-neutral, its effect is largely discriminatory because it fails to take account of gender differences in disaster and climate change impacts, or to engage women proactively as equal partners with men in planning and designing adaptation and risk management laws and strategies.

The consequence is that most national legislation related to disaster and climate risk is effectively gender-blind, and requires the application of a gender lens to retro-fit gender equality and non-discrimination into systems that were designed in the absence of a gender analysis.

### **3. Gender Analysis of legislation in practice**

A common factor which we found during our missions was that whilst some individuals in government had a good understanding of how to conduct a gender analysis of legislation, it was not generally true for all law and policy makers or the civil servants implementing the laws. There was sometimes a fundamental lack of understanding of the terms equality (including formal and substantive equality); discrimination (including both direct and indirect discrimination); temporary special measures to redress disadvantage for women and promote their equality; effective use of gender budgeting as well as the importance of the collection of appropriate sex disaggregated data to ensure effective planning and monitoring of legislation. These are primary considerations when undertaking a gendered analysis of laws.

#### **C. What we concluded**

There are seven key areas of focus for a gender inclusive legal framework on CC and DRM for implementation for the three project countries and for the region more generally. In brief they are:

1. Constitutional guarantees for fundamental human rights on gender equality and direct and non-direct discrimination including providing for temporary special measures.
2. Ensure all law and policy makers and implementers across government understand and then mainstream gender analysis for all legislation by identifying and responding to the differing interests and needs of women and men. This needs to be performed at the time legislation is being developed, during its implementation and when any amendments are made.
3. Strengthen laws related to CC and DRM through; the inclusion of gender equality and non-discrimination principles, mandated representation of women in decision-making bodies from national to local levels, and use of gender analysis in needs and risk assessments and programme planning.
4. Collect sex-disaggregated data to enable identification of the differing needs of men and women as well as later monitoring and assessment of the effectiveness of the legislation introduced.
5. Strengthen the laws, institutions and implementation for GBV prevention and support for victims/survivors and access to justice in normal times.
6. Plan for GBV prevention, mitigation and support systems to be in place as a priority element of disaster response and recovery and climate relocation so that there is no delay in implementation.
7. For climate change and economic resilience, laws must be effectively implemented and monitored to increase women's access to decent work and non-discriminatory conditions. Important examples include:
  - equality of rights to land tenure and housing to give women equal certainty of use land for their livelihoods, food production and rebuilding activities. This must include equal legal rights to customary land,

- inheritance law that is non- discriminatory and ensures that women receive equal protection regardless of their marital status,
- laws to encourage women's micro and small businesses into the formal sector by providing economical and streamlined SME registration and development support, including access to business continuity training, insurance and risk financing.

Global good practice examples of laws on these each of these areas are provided in our draft report which will be finalised in 2020.

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<sup>1</sup> Strengthening Women's Resilience to Climate Change and Disaster Risk in Asia and the Pacific (ADB TA-9348) over three years from 2018 – 2020.

<sup>2</sup> Eric Neumayer and Thomas Plumper, "The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy, 1981-2002," *Annals of the American Association of Geographers* 97, no. 3 (September 2007): 11, <https://doi.org/10.1111/j.1467-8306.2007.00563.x>.

<sup>3</sup> Government of Nepal National Planning Commission, "Nepal," 227.

<sup>4</sup> IFRC and Sabin Shrestha, "Nepal Country Case Study - Effective Law and Policy on Gender Equality and Protection from Sexual and Gender-Based Violence in Disasters" (Geneva, Switzerland: International Federation of Red Cross and Red Crescent Societies, 2017), 35–38, [https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2017/10/Gender-SGBV-Report\\_-Nepal.pdf](https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2017/10/Gender-SGBV-Report_-Nepal.pdf).

<sup>5</sup> IFRC and Shrestha, 35–38.

<sup>6</sup> IFRC and Mary Picard, "Effective Law and Policy on Gender Equality and Protection from Sexual and Gender-Based Violence in Disasters: Global Report." (Geneva, Switzerland: International Federation of Red Cross and Red Crescent Societies, 2017), 49–51, [https://doi.org/10.1163/2210-7975\\_HRD-9813-2015012](https://doi.org/10.1163/2210-7975_HRD-9813-2015012).

<sup>7</sup> Hotter and colder temperature extremes, stronger storms, longer droughts and heavier rainfall

<sup>8</sup> Sea-level rise, ocean acidification, changes in fish stocks, permanent inundation of land, desertification and increased wildfire risks, changes in plant and animal viability and migration of disease vectors such as malarial mosquitos.

<sup>9</sup> Climate change mitigation requires a re-orientation of the energy and forestry sectors, in particular, to reduce carbon emissions and increase carbon sequestration.

<sup>10</sup> IFRC et al., Unseen, Unheard Gender-Based Violence in Disasters - Asia-Pacific Case Studies (Kuala Lumpur, Malaysia: International Federation of Red Cross and Red Crescent Societies, 2016), <https://www.ifrc.org/Global/Publications/Gender%20and%20Diversity/GBV%20in%20disasters%20AP%20report%20LR.pdf>.

<sup>11</sup> IFRC and Ferris, "Unseen, Unheard: Gender-Based Violence in Disasters. Global Study," 20.

<sup>12</sup> IFRC et al., Unseen, Unheard, GBV in Disasters Asia-Pacific, 27.

<sup>13</sup> IFRC and Ferris, "Unseen, Unheard: Gender-Based Violence in Disasters. Global Study," 22–25.

<sup>14</sup> IFRC and Mary Picard, "Effective Law and Policy on Gender Equality and Protection from Sexual and Gender-Based Violence in Disasters: Global Report." (Geneva, Switzerland: International Federation of Red Cross and Red Crescent Societies, 2017), [https://doi.org/10.1163/2210-7975\\_HRD-9813-2015012](https://doi.org/10.1163/2210-7975_HRD-9813-2015012).

<sup>15</sup> Food processing, handicrafts and weaving.

<sup>16</sup> Fiji and Simone Esler, "Fiji Post-Disaster Needs Assessment - Tropical Cyclone Winston, February 20, 2016" (Suva, Fiji, May 2016), 99–105, <https://reliefweb.int/sites/reliefweb.int/files/resources/Post%20Disaster%20Needs%20Assessments%20CYCLONE%20WINSTON%20Fiji%202016%20%28Online%20Version%29.pdf>.

<sup>17</sup> Fiji and Esler, 102.