



Submission on the Gender-related Dimensions of Disaster Risk Reduction and Climate Change

The Global Gender Justice Clinic at Cornell Law School and the Center for Reproductive Rights thank the CEDAW Committee for the opportunity to submit this report for the Half Day of General Discussion on the Gender-related Dimensions of Disaster Risk Reduction and Climate Change. Our organizations work to advance gender equality and the rights of women and girls worldwide. We are delighted to have the opportunity to contribute to this important discussion.

Women and girls are at heightened risk of human rights abuses following disasters as compared to men and boys.¹ According to the United Nations Population Fund (UNFPA), this heightened risk is due to two factors: first, pervasive gender inequalities that are exacerbated in times of instability; and second, a breakdown in access to needed sexual and reproductive health services, such as maternal health care, emergency obstetric care, contraception, and safe abortion.² These factors reinforce each other to increase the risk to women's health and lives following climate change-related disasters, undermining women's and girls' human rights. Indeed, the CEDAW Committee has affirmed that climate change impacts women differently from men.³ This difference is due to physical and biological differences that disadvantage women's and girls' response to disaster-related hazards, as well as to stereotypes and social norms that lead to inequitable distributions of aid and resources.⁴

This submission will explore how natural disasters affect women's and girls' exercise of their rights in several respects, drawing on lessons learned from the Philippines following Typhoon Haiyan in 2013 and from Nepal following the 2015 earthquakes. First, the submission will outline the disproportionate impact that natural disasters have on women's and girls' short- and long-term access to reproductive health services and how disasters affect risks of gender-based violence, particularly sexual violence and child marriage. Second, this submission will explore how disasters affect access to justice for women and girls who have suffered violations of their rights.

I. Natural Disasters, Reproductive Rights, and Violence against Women and Girls

During and following public emergencies, such as major natural disasters, every individual will likely have less access to health services. Health care facilities may be damaged or destroyed, health care personnel injured or killed, or people may otherwise not be able to safely access health services due to disruptions in transportation or threats to personal security.⁵ There is also often a higher demand for the limited health services that are available, as natural disasters lead to injuries that require medical attention.⁶ Finally, there is often a shortage of medicines, medical supplies, food, and clean water following natural disasters, which leads to further health complications as individuals experience malnutrition or become sick from spoiled food or contaminated water supplies.⁷

Women and girls are more affected by health care outages following disasters, because in addition to suffering injuries as a result of disasters, women and girls have specific reproductive health needs that are ongoing and can lead to an immediate and increased risk of serious injuries or death if left unaddressed. These needs include contraceptive information and services including emergency contraceptives to avoid unintended pregnancies, safe abortion services, and maternal health care.⁸ These needs are heightened in

disaster settings where the risk of sexual violence increases, particularly for those who have been displaced from their homes and are living in camps.⁹

These health needs may not have been adequately met before the disaster, contributing to further risks. For instance, although the reproductive health consequences of the 2015 earthquakes in Nepal are still being measured, prior to these earthquakes women and girls faced several significant barriers to the realization of their reproductive rights that jeopardized their post-disaster health. One woman died every eight hours in Nepal from pregnancy-related complications prior to the earthquakes.¹⁰ Due to early and frequent pregnancies, at least 10% of women and girls in Nepal suffered from uterine prolapse, a condition associated with lack of access to reproductive health information and services.¹¹ Women in Nepal also reported feeling unable to make decisions about their reproductive health, including the use of contraception, because their in-laws and husbands forbade it.¹² Only 38% of women and girls ages 15 to 49 were aware that abortion is legal,¹³ and only 59% were aware of a place to seek safe abortion services, with significantly less awareness for women in rural areas, with less education, or with lower socioeconomic status.¹⁴ There were also disparities in the access to reproductive services afforded to Nepali women of different castes, ethnicities, and religious groups.¹⁵

These pre-existing barriers are compounded in disaster contexts due in part to national and international responses to disasters, which often fail to sufficiently prioritize women's rights and, in particular, reproductive rights. For example, there was international awareness of the impact that Typhoon Haiyan would have on women and girls in the Philippines—particularly the need to protect women from sexual violence and ensure access to maternal health care.¹⁶ The humanitarian response to Typhoon Haiyan, however, has been criticized for the low priority put on concerns about violence against women in its major guiding documents.¹⁷ Nearly a month after the typhoon, national and international aid agencies had raised only \$3 million of the estimated \$30 million needed to ensure access to hygiene supplies, reproductive health services, and gender-based violence counseling for women and girls.¹⁸ In the months and years following the typhoon, stagnation in recovery efforts has left many women and girls in internal displacement camps, where there is a heightened risk of sexual violence due to a lack of security and where access to health goods and services—including maternal health care—is in short supply.¹⁹

A. Maternal mortality and morbidity increase post-disaster, due to barriers to accessing maternal health services.

Maternal mortality is a significant concern following natural disasters. Three out of every five maternal deaths worldwide occur in conflict, displacement, or natural disaster settings.²⁰ This is because pregnant women and girls in these settings face disruptions in prenatal care, experience injuries from disasters and conflicts that lead to pregnancy complications, or cannot access skilled birth attendants during delivery.²¹ Pregnancy without adequate prenatal, emergency obstetric, and delivery services is more likely to result in preventable complications that, when left untreated, threaten the lives and health of women and girls.²²

After the 2015 earthquakes in Nepal, there were 138,000 women and girls who were pregnant or would become pregnant in disaster-affected areas and who needed assistance in the following months.²³ An assessment of needs published by the government of Nepal (“Nepal Needs Assessment”) following the earthquakes identified that “[d]amage sustained by hospitals and health centres has limited women's access to sexual and reproductive health services, and an urgent rehabilitation of damaged birth centres is a priority in order to reduce the risk of obstetric complications for pregnant women.”²⁴ Indeed, UNICEF reported that “at least 70 percent of birthing centers in 14 of the most affected districts of Nepal were damaged or destroyed, rising to 90 percent in some areas.”²⁵ UNFPA found that the immediate disaster response left an “enormous” need for reproductive health services; and at the same time, logistical difficulties in providing services and a lack of funding and resources meant that there were several barriers to providing needed support for women and girls.²⁶

In the month following the earthquakes, UNICEF estimated that twelve deliveries were occurring every hour in Nepal without access to even basic health care as a result of damage to maternal health facilities—an increase of one-third from prior to the earthquakes.²⁷ It is estimated that 10,300 women and girls continue to give birth each month in affected areas, with 1,500 (15%) anticipated to experience complications and require Caesarian sections.²⁸ The Nepal Needs Assessment found that women’s low status in society has compounded barriers to care, stating that “as families divert money from paying for healthcare and food to restoring their homes and livelihoods, this may be done at the cost of the health of children, pregnant women and lactating mothers.”²⁹ As a result of these issues, World Health Organization (WHO) experts have expressed concern that the disaster will likely jeopardize recent national progress in addressing maternal mortality.³⁰

In November 2013, when Typhoon Haiyan struck the Philippines, approximately 250,000 Filipino women in affected areas were pregnant, with nearly 70,000 due to give birth in the first months of 2014.³¹ Indeed, hundreds of women were giving birth every day following the typhoon.³² Birthing centers and reproductive health facilities were, however, largely unavailable; more than half of reproductive health facilities surveyed suffered severe structural damage, while most of the birthing centers in the region most impacted by the typhoon were destroyed.³³ As of August 2014—approximately nine months after the typhoon—only half of pregnant women or those caring for young children who were affected by the typhoon had been provided access to support or counseling services.³⁴ The stress women experienced as a result of the typhoon has been linked to higher rates of pregnancy complications, including unusually high rates of high blood pressure leading to preeclampsia.³⁵

Food and clean water shortages can further exacerbate health problems faced by women and girls after a disaster, especially for women or girls who are pregnant or lactating.³⁶ In the Philippines following Typhoon Haiyan, displaced pregnant women faced more difficulty than others in accessing clean water as some displacement camps were not connected to municipal water systems and required that individuals carry water from delivery trucks to their temporary homes.³⁷ Due to persistent gender inequalities in families and in many societies, women and girls in disasters worldwide may also receive a smaller share of food and clean water following a disaster.³⁸ In addition to the negative effects that lack of food and clean water have on general health, women who are pregnant have a higher risk of pregnancy complications if they are malnourished, raising the risk of maternal mortality.³⁹

B. Women and girls face increased barriers to preventing unintended or unwanted pregnancies following natural disasters, due to limitations on access to contraceptives and safe abortion.

Due to insecurity and the destruction of health infrastructure in post-disaster settings, women and girls may face disruptions in their use of contraceptives because they cannot access these medicines, thus increasing the risk of unintended pregnancies. Where access to contraception does exist following a disaster, women and girls often still face cultural stigma and disempowerment in their families, which prevent them from negotiating the use of contraceptives.⁴⁰ Additionally, many unmarried women and girls face stigma surrounding sexual activity that can be exacerbated in times of crisis and may influence the attitudes of health care workers, making accessing contraceptives socially unacceptable.⁴¹ Women and girls who become pregnant under these circumstances and cannot access safe abortion services—due to diminished access to health services, stigma surrounding abortion, or laws or policies that limit access to abortion—may seek out clandestine and unsafe abortions, a leading cause of maternal mortality and morbidity,⁴² or be forced to carry a pregnancy to term.

Women and girls in the recent disasters in Nepal and the Philippines experienced shortages of and increased barriers to access to contraceptives, creating higher risks of unintended pregnancies. UNFPA has criticized the lack of information on the importance of back-up methods of contraception such as condoms when regular

methods are unavailable as a barrier to preventing unintended pregnancies in post-earthquake Nepal.⁴³ As a result of disruptions in contraceptive access, married women in Nepal—47% of whom used contraceptives prior to the earthquakes—report that they experienced unintended pregnancies.⁴⁴

Prior to Typhoon Haiyan, women and girls already faced barriers to contraceptive access in the Philippines as a result of laws and policies restricting access to contraception.⁴⁵ More than a year after the typhoon, health care personnel and medications were in particularly short supply for those living in displacement camps,⁴⁶ limiting access to needed health care particularly for women and girls, who may have needed to access contraception to prevent pregnancy. Reports have indicated that emergency contraception was also unavailable,⁴⁷ in line with Philippine Food and Drug Administration’s deregistration of the only brand of emergency contraception approved in the country,⁴⁸ leaving women and girls who had experienced sexual violence or whose contraceptive methods had failed vulnerable to unintended pregnancies. Additionally, abortion is prohibited without any clear exceptions under the Philippine Revised Penal Code.⁴⁹ The WHO has documented a “baby boom” in the Philippines following the typhoon, including an increase in the number of adolescent pregnancies, which puts these adolescents at an increased risk of life-threatening complications associated with early pregnancy.⁵⁰

C. Women and girls experience higher rates of sexual violence following disasters, increasing their need for timely sexual and reproductive health services.

In crisis settings, including following natural disasters, the risk of sexual violence and exploitation increases, disproportionately affecting women and girls.⁵¹ This heightened risk is often the result of displacement from homes and communities and separation from family members following a natural disaster, and may be further exacerbated by placement in overcrowded camps that do not have gender-segregated facilities.⁵² In post-disaster settings, the services intended to prevent and address sexual violence—such as police protection—are often overstretched or unavailable, or they lack gender sensitivity.⁵³ In particular, women and children who have been displaced from their homes are at increased risk of violence when trying to meet basic needs, such as when fetching water or accessing toilet facilities.⁵⁴

Preliminary surveys following the 2015 earthquakes in Nepal indicate that women feel an increase in risk and insecurity.⁵⁵ Women attribute this increased risk to the lack of privacy, including a lack of segregated toilets and wash facilities in temporary shelters, and an increase in alcohol consumption by men, exacerbated by the loss of livelihood.⁵⁶ Despite these concerns, only 9% of camps have any type of camp management, and 91% do not have segregated toilets.⁵⁷ In some districts, there have been reports of traffickers entering temporary shelters disguised as relief workers.⁵⁸ The rise in customs such as *chhaupadi*, a cultural practice which imposes restrictions on menstruating women, has increased the vulnerability of women to different forms of violence.⁵⁹ Reports also indicated a particular increased security risk for female-headed households resulting from power shortages and other security risks that put these families in a more vulnerable position.⁶⁰

Government officials and relief organizations documented similar concerns about rising violence against women in the Philippines following Typhoon Haiyan. Of the 1,300 police officers deployed shortly after the typhoon in Tacloban—one of the areas hardest hit by the typhoon—only two were women,⁶¹ making it less likely that security forces would prioritize the prevention of gender-based violence and that women and girls would report violence.⁶² Women and girls who were displaced by the typhoon reported that they were living in overcrowded facilities that lacked sufficient privacy or security, which increased their vulnerability to sexual violence.⁶³ To survive, many women in the Philippines—including pregnant women—reportedly have engaged in transactional sex or have been lured into situations of trafficking, particularly as aid to the displacement camps has dwindled following the typhoon.⁶⁴

This increase in the risk of sexual violence coupled with significant barriers to accessing reproductive health services, as noted above, creates further risks of rights violations for women and girls after disasters. For

instance, in many countries—including the Philippines—abortion is explicitly illegal or may not be clearly recognized as legal for women who are victims of sexual violence.⁶⁵ Additional legal barriers can arise where abortion is only legally available if women can “prove” the violence and obtain judicial authorization to have an abortion.⁶⁶ If women and girls do not have ready access to health care following a disaster or if health facilities have run out of medicine stocks, procuring emergency contraception in a timely manner—which is particularly important in preventing pregnancy after sexual violence—may be next to impossible.⁶⁷ Increased sexual violence may then lead to a higher rate of unintended or unwanted pregnancies following a disaster, and, because of the nature of these pregnancies, this may have significant psychological impacts on the women and girls who experienced the sexual violence.⁶⁸

D. Where child marriage is practiced, girls face higher rates of child marriage post-disaster.

As the Human Rights Council has noted, humanitarian situations, which include natural disasters, are linked to an increase in child marriage.⁶⁹ Various reports suggest that the increase is attributable in part to a fear of sexual violence and economic hardships.⁷⁰ In the wake of natural disasters, when food and other resources are scarce, families may resort to marrying off their daughters as a means of “protecting” them from sexual violence or from turning to transactional sex.⁷¹ Families may also view child marriage as a way to generate income from bride prices or to reduce the number of children to care for after a disaster.⁷²

Despite a ban on child marriage in Nepal’s constitution and a recent law outlawing marriage until age 20 for both women and men,⁷³ the practice was still common before the 2015 earthquakes. A 2014 UNICEF report found that 15% of women aged 20 to 49 years were married before age 15, and 52% were married by age 18.⁷⁴ Prior to the earthquakes, studies documented a higher incidence of maternal mortality in Nepal among girls under age 20 than for women in their 20s,⁷⁵ while the unmet need for contraception was highest among married adolescent girls ages 15 to 19,⁷⁶ with only 17.6% of married adolescents having access to contraception.⁷⁷ Although there has yet to be comprehensive documentation of child marriage rates in Nepal following the earthquakes, agencies such as UNFPA have expressed strong concern that families in Nepal will resort to child marriage as a negative coping mechanism following the earthquakes due to poor living conditions, economic factors, and the societal belief that married adolescent girls are safer than their unmarried peers.⁷⁸ This concern has been aggravated by the impact of the earthquake on education and infrastructure. Of the children who have dropped out of school since the earthquakes, 65% have been girls and respondents of a survey stated early marriage as the primary cause of these dropouts.⁷⁹

In addition to limiting the education, work, and life prospects of girls, child marriage poses several risks to girls’ current and future reproductive health. Early pregnancy greatly increases the risk of serious complications, as girls’ bodies are not yet fully mature.⁸⁰ Since the delivery of reproductive health services is compromised by a disaster, these complications put girls’ lives and health at even greater risk. Girls who are subjected to child marriage are also often less able to make important reproductive health decisions such as accessing contraception to delay pregnancy, either because of power dynamics within their relationships⁸¹ or laws and health care practices that otherwise limit the reproductive health decision-making power of adolescents. For instance, many states require that girls obtain spousal consent to access a range of reproductive health services, including contraception and abortion,⁸² denying married girls the ability to control this aspect of their lives.

E. Human Rights Standards on Reproductive Rights, Violence against Women, and Disaster Risk Reduction

The CEDAW Committee has consistently found that violence against women and violations of reproductive rights are forms of discrimination against women and girls.⁸³ Treaty monitoring bodies have also recognized these practices as violations of myriad other rights, including the rights to health, to life, to access information, to privacy, to decide on the number and spacing of children, and to be free from torture or ill-

treatment.⁸⁴ This section explores what states' obligations are regarding reproductive rights and violence against women following disasters.

1. States must continue to respect, protect, and fulfill women's rights following natural disasters.

In its General Recommendation No. 28, the CEDAW Committee affirmed that, even during disasters and public emergencies, women's rights are not suspended, and states must continue to respect, protect, and fulfill women's right to equality, which includes their reproductive rights.⁸⁵ With regard to conflict and post-conflict situations, which because of their disruption to social and political systems often lead to analogous instability, insecurity, and barriers to exercising rights as those seen following natural disasters, the CEDAW Committee has specifically found that "[p]rotecting women's human rights at all times, advancing substantive gender equality before, during, and after conflict, and ensuring that women's diverse experiences are fully integrated into all . . . reconstruction processes are important objectives of the Convention."⁸⁶ The CEDAW Committee has found that, instead of suspending rights protections, states should "adopt strategies and take measures addressed to the particular needs of women in . . . states of emergency."⁸⁷

This assessment aligns with the findings of other treaty monitoring bodies, including those concerning reproductive rights and violence against women. For instance, although the International Covenant on Civil and Political Rights (ICCPR) allows states to derogate from some rights protections during public emergencies, the ICCPR also states that the rights to life and to be free from torture or ill-treatment—both of which underlie the states' obligations to ensure reproductive rights and address violence against women—are non-derogable, including following natural disasters.⁸⁸ Furthermore, even though the right to health is a right of progressive realization, the ESCR Committee has recognized certain core obligations that all states must fulfill, regardless of resources, which includes the protection of reproductive rights.⁸⁹ The ESCR Committee has also found that the right to health encompasses the right to treatment, including "the provision of disaster relief and humanitarian assistance in emergency situations."⁹⁰ The CRC Committee has further found that states should prioritize the progressive realization of children's right to health, "even in the context of political or economic crisis or emergency situations."⁹¹ This requires that "children's health and related policies, programmes and services be planned, designed, financed and implemented in a sustainable manner."⁹²

2. States must prioritize the delivery of reproductive health services and the prevention of violence against women in post-disaster settings.

States' human rights obligations require that they make special efforts to ensure that the most marginalized groups—including women and girls—receive services, including health care, that they need following disasters. For instance, the ESCR Committee in its General Comment No. 14 on the right to health found that "[p]riority in the provision of international medical aid, distribution and management of resources, such as safe and potable water, food and medical supplies, and financial aid should be given to the most vulnerable or marginalized groups of the population."⁹³ The CRC Committee has also found that states should place priority on health service delivery to children during times of disaster.⁹⁴

In the context of natural disasters or other public emergencies, the CEDAW Committee has urged states to prioritize the reproductive health needs of women and girls. The Committee, for example, found that Indonesia had violated women's and girls' right to non-discrimination following the 2005 tsunami due to barriers women faced in accessing needed services, including reproductive health services.⁹⁵ In its General Recommendation No. 30 on Women in Conflict, the CEDAW Committee called for states to prioritize:

access to sexual and reproductive health and rights information; psychosocial support; family planning services, including emergency contraception; maternal health services, including antenatal

care, skilled delivery services, prevention of vertical transmission and emergency obstetric care; safe abortion services; post-abortion care; prevention and treatment of HIV/AIDS and other sexually transmitted infections, including post-exposure prophylaxis; and care to treat injuries such as fistula arising from sexual violence, complications of delivery or other reproductive health complications, among others.⁹⁶

Furthermore, the CEDAW Committee has noted that states should take particular measures to address the social and health service needs of rural women in conflict and post-conflict zones, because they are even less likely to have access to needed services.⁹⁷

Because women and girls are at higher risk of sexual violence following disasters, human rights law requires that states prioritize the prevention of violence and the delivery of health services, including reproductive health services, to address the psychological and physical consequences of such violence. In the analogous context of conflict and post-conflict settings, the CEDAW Committee has found that states should “[i]nvest in technical expertise and allocate resources to address the distinct needs of women and girls subject to violence, including the impact of sexual violence on their reproductive health.”⁹⁸ The CEDAW Committee has also noted that girls are particularly vulnerable to child marriage in post-conflict settings, due to family instability and an increase in poverty, and has recommended that states in conflict and post-conflict areas take special measures to protect girls from child marriage.⁹⁹ Furthermore, the Human Rights Council has affirmed that “children require special protection to ensure their safety and well-being” during crisis and natural disasters and has called on states to ensure that the rights of children, particularly girls, are “a priority when planning prevention and humanitarian assistance.”¹⁰⁰

Human rights standards also indicate that states must include women and girls in disaster risk reduction planning and implementation efforts, as a means of ensuring that their needs are included in the response to disasters. For example, in its 2012 Concluding Observations on Chile, the CEDAW Committee called upon the state “to ensure that all programmes and strategies taken in response to earthquakes and other natural disasters . . . integrate a gender perspective in order to ensure that women, in particular rural women, fully benefit from such measures according to their needs.”¹⁰¹ Notably, in Concluding Observations on Indonesia, the CEDAW Committee encouraged the state to ensure that rural women were involved in efforts to address the effects of the 2005 tsunami, including those related to reproductive health.¹⁰²

II. Access to Justice for Disaster-related Women’s Rights Violations

During times of crisis, formal systems of justice and human rights protections often break down due to instability and displacement.¹⁰³ For instance, following the 2015 earthquakes in Nepal, the Inter-Agency Standing Committee, which coordinates UN and non-UN humanitarian response, noted that policing and protection systems had broken down, including the justice systems responsible for ensuring redress of grievances.¹⁰⁴ This breakdown has a disproportionate impact on women and girls, for several reasons.

In natural disaster contexts, as highlighted above, women are at particular risk of reproductive rights violations and gender-based violence, including child marriage and sexual violence. As the CEDAW Committee has emphasized in General Recommendation No. 30 on Women in Conflict, where women and girls face heightened risks of sexual and other forms of gender-based violence, states must ensure access to justice.¹⁰⁵ States also maintain their obligation “to address all violations of women’s rights, in addition to the underlying structural sex and gender-based discrimination that underpinned such violations.”¹⁰⁶

Indeed, access to justice and redress for rights violations are essential parts of the duty to respect, protect, and fulfill human rights obligations and have particular resonance for ensuring the rights of women and girls.¹⁰⁷ The CEDAW Committee has found that six interrelated factors—justiciability, availability, accessibility, good quality, effective remedy, and accountability of justice systems—are essential for

women's access to justice.¹⁰⁸ Due to insecurity and instability, at least four of these factors (availability, accessibility, good quality, and effective remedy) may be under significant strain following a natural disaster.

A. Barriers to Accessing Justice in Post-Disaster Settings

The CEDAW Committee recognizes in crises, such as in conflict and post-conflict settings, that “challenges relating to access to justice are especially aggravated and acute ... because formal justice systems may no longer exist or function with any level of efficiency or effectiveness.”¹⁰⁹ Where formal justice systems continue to exist, they may not otherwise have addressed the barriers women and girls face in accessing justice prior to the conflict, “such as legal, procedural, institutional, social and practical barriers, in addition to entrenched gender discrimination, [which] are exacerbated during conflict, persist during the post-conflict period, and operate alongside the breakdown of the police and judicial structures to deny or hinder women's access to justice.”¹¹⁰ Therefore, even if formal justice systems continue to function following a disaster, they may still not effectively operate to prevent and provide redress for the increased risk of violations of women's and girls' rights in post-disaster settings.

Additionally, these formal justice systems may lose their overall effectiveness when dealing with crises, undermining their legitimacy in the eyes of the public.¹¹¹ As a result, during natural disasters and other public emergencies that cause crises, people may turn to customary and traditional norms and practices to address and solve protection problems.¹¹² Where customary and traditional practices uphold stereotypical gender norms, women and girls are left vulnerable to increased discrimination and violence.¹¹³ Indeed, the CEDAW and CRC Committees have noted that in customary and traditional adjudications, laws prohibiting practices that violate women's and girls' rights “may not be enforced effectively because the existence of customary, traditional or religious laws may actually support those practices.”¹¹⁴ For instance, as noted above, there is an increase in child marriage following disasters. Even where laws already outlaw the practice, during these times of instability, custom and tradition fill the void in formal law enforcement, particularly related to crime and violence.¹¹⁵ Families and communities may then look to traditional practices such as child marriage, even when formal laws have outlawed them and deemed them harmful, to “protect” girls from the increased risk of sexual violence and relieve the strains on families as they distribute limited resources.¹¹⁶

B. Ensuring Access to Justice in Post-Disaster Settings

In order to uphold women's and girls' rights following disasters, states must ensure that justice and protection systems are prioritized as a part of disaster response, and that these systems meet the six factors of effective access to justice that the CEDAW Committee has identified. This requires that, prior to a disaster, robust systems of justice and legal protections are in place to provide adequate redress to women and girls and protect them from rights violations, and that states include, as part of their disaster risk reduction planning efforts, plans for ensuring justice and legal protection following a disaster.¹¹⁷ The CEDAW Committee has also called on states to engage with traditional and customary adjudication mechanisms prior to a crisis to ensure that they have eliminated discriminatory practices.¹¹⁸

Even in times of crisis, if formal justice systems have broken down, the CEDAW Committee has specifically identified the need for gender-sensitive mechanisms—including mobile courts to serve camps, resettlement areas, or rural areas—that can provide women remedies, that ensure women's confidentiality, and that help fill a justice vacuum that could otherwise lead to discriminatory customary and traditional practices.¹¹⁹ In the context of reproductive rights violations in particular, states must implement effective, immediately accessible, rapidly-responding processes by which individuals can assert their rights to treatment and receive an authoritative response from an independent body when they are denied access to reproductive health services.¹²⁰

Additionally, following a disaster, the risk of women’s rights violations can be partially mitigated in the short term by ensuring that the experiences of women and girls are heard and addressed. For instance, following Typhoon Haiyan, the Philippines Department of Social Welfare and Development and UNFPA organized town hall meetings in displacement centers in Tacloban.¹²¹ These forums gave women and girls the opportunity to express concerns about their health, welfare, and safety and to make specific complaints about living conditions within the camps, which helped identify many security risks to women and girls in the camps, including the safety of toilet facilities, lack of privacy, poor lighting, and overcrowding.¹²² As a result, the Philippines deployed more female officers to disaster-affected regions and increased training on violence against women, helping to both reduce the risk of sexual violence and increase reporting of it.¹²³

In the long term, as the state recovers from a disaster, it should prioritize redress for victims of rights violations during the post-disaster period, particularly rights violations committed against women and girls. Formal bodies should have the authority to review any decisions made by customary or traditional adjudicatory bodies, as well as temporary informal bodies established by the states, to ensure that they have fully upheld women’s and girls’ rights.¹²⁴ As the CEDAW Committee has also noted, mechanisms must be put in place to “provide effective and timely remedies that respond to the different types of violations experienced by women and ensure the provision of adequate and comprehensive reparations; address all gender-based violations, including sexual and reproductive rights violations, ... forced marriage and forced displacement, in addition to sexual violence.”¹²⁵

Measures of redress should also seek to strengthen legal protections afforded to women and girls following times of instability, taking stock and adopting lessons learned from the disaster as established by formal and informal bodies. As the CEDAW Committee noted in its General Recommendation No. 30, “rather than re-establishing the situation that existed before the violations of women’s rights, reparation measures should seek to transform the structural inequalities that led to the violations of women’s rights, respond to women’s specific needs and prevent their reoccurrence.”¹²⁶ For instance, in October 2011, the Women and Climate Justice Tribunal in Nepal—an informal body established by a non-governmental organization—discussed the issue of climate justice and its impact on rural women.¹²⁷ The tribunal invited five rural women to testify about climate change and its impact on women’s issues and was attended by civil society, the media, local farmers, and government officials.¹²⁸ The tribunal then helped inform potential political action to address the impacts of climate change, as participants from major political parties attended the tribunal and, during its proceedings, “committed to work for rural women and go together to address the problems caused by climate change and global warming.”¹²⁹

III. Recommendations to the CEDAW Committee for a Draft General Comment on the Gender-related Dimensions of Disaster Risk Reduction and Climate Change

Thank you again for the opportunity to contribute to this important discussion. We hope that you will consider the following recommendations, based on experiences following the disasters in Nepal and the Philippines and on the human rights standards outlined above, for inclusion in your discussions.

A. Reproductive Rights and Violence against Women

- Affirm that women’s rights obligations, including reproductive rights and the right to be free from violence, are non-derogable and must be ensured in times of public emergency, including following natural disasters.
- Recommend that, as a means of reducing the risk to women and girls of violations of their rights following a disaster, states adopt and implement laws, policies, and practices, in line with the CEDAW Committee’s General Recommendations No. 18, 24, and 31, that ensure protection of and accountability for violations of the full range of women’s and girls’ reproductive rights and women’s and girls’ rights to freedom from gender-based violence, including sexual violence and child marriage.

- Advise states to meaningfully include women and girls, including those from marginalized groups within their countries, in planning for all aspects of disaster response and in post-disaster recovery efforts.
- Recognizing the increased risk to women and girls of violations of their reproductive rights in disaster and post-disaster contexts and to ensure women’s survival, health, and equality in these situations, recommend to states that they must prioritize the delivery of reproductive health services to women and girls affected by the crisis. These services should include prenatal care, emergency obstetric services, delivery services, post-natal care, the full range of contraceptive methods including emergency contraception, and safe and legal abortion. States also should guarantee access to the underlying determinants of health, including clean water and adequate nutrition, particularly for pregnant and lactating women.
- Recognizing the insecurity and the risk of violence for women and girls following disasters, recommend that states ensure that displacement camps and temporary housing have gender-segregated facilities and security that will allow women and girls freedom of movement. Ensure that security measures are put in place to provide particular protections for the rights of women and girls and to follow up in accordance with the due diligence principle on cases of gender-based violence.
- Recommend that states, following a disaster, effectively enforce laws prohibiting child marriage and prioritize creating an environment that ensures the security and well-being of girls. This may include establishing girl-specific programs and shelters that integrate girls in the post-disaster relief efforts, ensure gender-segregated facilities, and provide education.

B. Access to Justice

- Recommend that states, prior to disasters, ensure that justice and human rights protection systems are accessible, available, and of good quality; provide effective remedies for violations of women’s and girls’ rights; and ensure that decision-makers are held accountable for their decisions. Ensure that traditional and customary tribunals are not permitted to undermine or violate women’s rights either by condoning discriminatory practices or issuing discriminatory orders.
- Recommend that, in preparing for disasters, states prioritize planning for temporary, flexible, and potentially mobile forums and justice mechanisms that will address the concerns of women and girls, uphold the rule of law, and ensure due process and due diligence for violence against women, while reaching as many individuals in disaster-affected areas as possible.
- Recommend that states include women and girls in the planning of post-disaster justice systems and ensure processes by which decisions made in informal systems can be reviewed and violations against women and girls during the post-disaster period can be adjudicated.
- Encourage states to use the opportunity of rebuilding justice systems to address the root causes of inequalities faced by women and girls, including those that lead to reproductive rights violations, sexual violence, and child marriage, and incorporate “lessons learned” from responses to the disaster.

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- ¹ UNITED NATIONS POPULATION FUND (UNFPA), *Shelter from the Storm: A transformative agenda for women and girls in a crisis-prone world* 38–39 (2015) [hereinafter UNFPA, *Shelter from the Storm*].
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