



# ADVANCING GENDER EQUALITY IN CLIMATE ACTION

Gender Assessment of Climate and  
Environmental Laws in the Philippines



Advancing Gender Equality in Climate Action: Gender Assessment of Climate and Environmental Laws in the Philippines

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As the only global intergovernmental organization exclusively devoted to promoting the rule of law to advance peace and sustainable development, IDLO promotes a rule of law approach to feminist climate action. IDLO developed this legal assessment of climate and environment-related legal and regulatory frameworks from a gender perspective with the Philippines. The purpose of the assessment is to contribute to the identification of discriminatory provisions against women and girls, and highlight ambiguities, contradictions, or lack of legal coherence in climate and gender laws and frameworks.

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# Acronyms

<b>ADR</b>	Alternative Dispute Resolution
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>BARMM</b>	Bangsamoro Autonomous Region in Muslim Mindanao
<b>CADT</b>	Certificate of Ancestral Domain Title
<b>CALT</b>	Certificate of Ancestral Land Title
<b>CARPER</b>	Comprehensive Agrarian Reform Program Extension with Reform
<b>CBFMA</b>	Community-based Forest Management Agreement
<b>CCC</b>	Climate Change Commission
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CEDAW-OP</b>	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women
<b>CHR</b>	Commission on Human Rights
<b>CLOA</b>	Certificate of Land Ownership Agreement
<b>CSC</b>	Certificate of Stewardship Contract
<b>DENR</b>	Department of Environment and Natural Resources
<b>DRRM</b>	Disaster Risk Reduction and Management
<b>DSWD</b>	Department of Social Welfare and Development
<b>ECC</b>	Environmental Compliance Certificate
<b>EIA</b>	Environmental Impact Assessment
<b>EPR</b>	Extended Producer Responsibility
<b>FPIC</b>	Free, Prior and Informed Consent
<b>GAD</b>	Gender and Development
<b>GBV</b>	Gender-based Violence
<b>GHG</b>	Greenhouse Gas
<b>GIDA</b>	Geographically Isolated Disadvantaged Areas
<b>GR</b>	CEDAW Committee General Recommendation
<b>ICCs</b>	Indigenous Cultural Communities
<b>IDLO</b>	International Development Law Organization
<b>IDP</b>	Internally Displaced Person

<b>IPs</b>	Indigenous Peoples
<b>IPMR</b>	Indigenous Peoples Mandatory Representation
<b>LDRRMC</b>	Local Disaster Risk Management Council
<b>LGBTQI</b>	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex
<b>LRA</b>	Land Registration Authority
<b>MPSA</b>	Mining Production Sharing Agreement
<b>NCIP</b>	National Commission on Indigenous Peoples
<b>NDC</b>	Nationally Determined Contribution
<b>NHRI</b>	National Human Rights Institute
<b>NIPAS</b>	National Integrated Protected Areas System
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OFW</b>	Overseas Filipino Worker
<b>OPCAT</b>	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>PAMB</b>	Protected Area Management Board
<b>PARC</b>	Presidential Agrarian Reform Council
<b>PCHR</b>	Philippines Commission on Human Rights
<b>PCW</b>	Philippine Commission on Women
<b>PSF</b>	People's Survival Fund
<b>PWD</b>	Persons with Disabilities
<b>TEPO</b>	Temporary Environmental Protection Order
<b>TLA</b>	Timber License Agreement
<b>UN Women</b>	United Nations Entity for Gender Equality and the Empowerment of women
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>VAW</b>	Violence Against Women
<b>VAWC</b>	Violence Against Women and Their Children
<b>VAT</b>	Value-added Tax
<b>4Ps Act</b>	Pantawid Pamilyang Pilipino Program Act

## PART 1.

# Introduction

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## 1.1 Background

The Philippines ranked first in the 2023 World Risk Index.<sup>1</sup> The index assessed 193 countries, with a focus on diversity in 2023.

Frequent natural disasters, such as typhoons, droughts, tsunamis, landslides and earthquakes, are common in the Philippines, situated in the Pacific Ring of Fire. Since 1990, the country has “faced 565 such disasters, killing 70,000 and costing billions in damages.”<sup>2</sup> The diverse natural ecosystems of the Philippines are particularly vulnerable to climate change, which can lead to coral loss, decreased rice yields, more intense droughts, rising sea level, and water scarcity.<sup>3</sup> Additionally, certain regions of the country experience human-induced disasters, such as armed conflict and violent extremist attacks, often overlapping with areas prone to natural disasters.

The 1987 Constitution is the country’s fundamental and supreme law. Other sources of Philippine law are:

- Statutes enacted by Congress, local legislation, court rules, administrative rules and orders, legislative rules, and presidential issuances;
- Treaties or international agreements, signed and ratified, which have the same force of authority as laws;
- Judicial decisions applying or interpreting the laws or the Philippine Constitution; and
- Customs<sup>4</sup> proved as a fact and not contrary to law, public order, or public policy.<sup>5</sup>

The Philippine Constitution guarantees the fundamental equality of women and men before the law. In Article II, Section 14, the Constitution declares that “the State recognizes the role of women in nation-building and shall ensure the fundamental equality before the law of women and men.”<sup>6</sup>

The Philippines has ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol (CEDAW-OP). In August 2009, the Philippines passed Republic Act No. 9710 (The Magna Carta of Women), which incorporates the CEDAW into domestic law. This landmark law defines discrimination against women and aims to achieve substantive equality by providing temporary special measures for women and the State’s obligations as the primary duty bearer in upholding women’s rights. The Magna Carta of Women contains specific provisions that guarantee the protection and security of women in times of disaster, calamities, and other crises, including protection from violence and involuntary displacement. It also recognizes the role of women in food production and the State’s obligation to ensure women’s sustainability and sufficiency. This includes reducing women’s vulnerability to risks, particularly in the context of climate change, through their active participation in relevant initiatives and decision-making processes.

Shortly after The Magna Carta of Women was signed into law, Republic Act No. 9729 (Climate Change Act of 2009) was approved in October 2009. This law recognizes the vulnerability of people experiencing poverty, women, and children to the consequences of climate change. It upholds State policy to incorporate a pro-poor, gender-sensitive and pro-children perspective in all climate change and renewable energy efforts, plans, and programmes. The national climate change framework strategy was further enforced by the National Climate Change Action Plan, “which prioritizes food security, water sufficiency, ecosystem and environmental stability, human security, climate-smart industries and services, and sustainable energy, and capacity development as the strategic direction for the period 2011 to 2028.”<sup>7</sup> According to the Plan,



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the adaptation measures shall be based on equity with special attention given “to ensure equal and equitable protection of the poor, women, children, and other vulnerable and disadvantaged sectors.”<sup>8</sup>

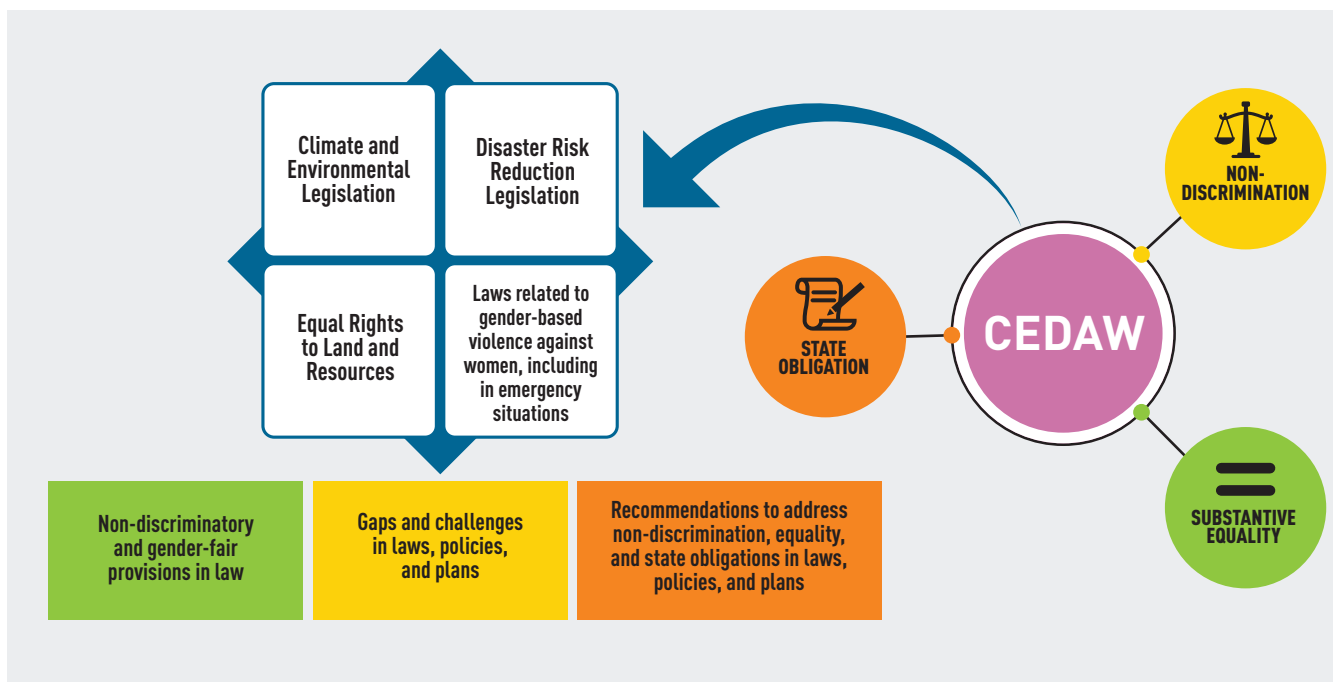
The Philippines ratified the Paris Climate Agreement in 2017 and communicated its Nationally Determined Contribution (NDC) to the United Nations Framework Convention on Climate Change (UNFCCC) in 2021. As announced by the Philippines during the 26th session of the Conference of the Parties to the UNFCCC, the NDC commits to projected greenhouse gas (GHG) emissions reduction and avoidance of 75 per cent from 2020 to 2030 for agriculture, waste, industry, transport, and energy sectors as part of its climate change mitigation strategy. The NDC also commits to undertake climate change adaptation measures in agriculture, forestry, coastal and marine ecosystems, biodiversity, health, and human security. It emphasises the importance of “meaningful participation of women, children, youth, persons with diverse sexual orientation and gender identity, differently abled, Indigenous Peoples, elderly, local communities, civil society,

faith-based organizations, and the private sector” in implementing climate actions.<sup>9</sup>

As a member of the Association of Southeast Asian Nations (ASEAN), the Philippines supports the 2023 ASEAN Joint Statement on Climate Change to the UNFCCC, which commits all its members to recognize “climate change’s negative impacts on basic human needs such as food, water, energy, clean and green environment, and health, including ecosystems, with disproportionate effects on vulnerable groups, including women, children, older people, people with disabilities, and people living in rural and remote areas, and those who are socio-economically disadvantaged.”<sup>10</sup> The statement also calls upon States Parties to the UNFCCC and its Paris Agreement to “increase meaningful and equal participation of women in effort [sic] to manage the impact of climate change to ensure gender-responsive implementation and means of implementation.”<sup>11</sup>

Following the adoption of the Magna Carta of Women and the Climate Change Act of 2009, along with international and regional commitments on gender

## Overarching Analytical tool for the Review



and climate, legislation and policies on climate, natural resources protection and management, land, and disaster, and women’s rights and gender equality have been established. With this plethora of commitments and laws, there is a need to assess how they fare on gender equality.

### 1.2 Objectives and Analytical Framework

It is within this context that the International Development Law Organization (IDLO) is implementing a self-funded project on Advancing Women’s and Girls’ Action for Climate Justice through the Rule of Law. The project aims to strengthen the ability of women and girls to promote and protect their environmental rights and shape climate action through the rule of law. Aligned with the framework underlined in the IDLO’s policy brief on Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action,<sup>12</sup> the project emphasises the need for an explicitly feminist approach to climate change, based on the rule of law, to ensure the inclusion of women in decision-making processes related to climate governance, equal

access to justice, and the enactment of inclusive and effective climate laws and policies. Notably, the policy brief highlights that gender-blind laws, regulatory frameworks and institutions exacerbate the injustices of climate change. It recommends reforming laws, policies, and justice institutions to make them more responsive to the climate needs of women and girls, in line with international human rights standards and national development plans.

Undertaking this approach, the IDLO commissioned this legal assessment of climate- and environment-related legal and regulatory frameworks from a gender perspective in the Philippines. The purpose of this legal mapping is to contribute to the identification of discriminatory provisions against women and girls, and highlight any ambiguities, contradictions or lack of legal coherence in climate and gender laws and frameworks. It was carried out by integrating the overarching principles of non-discrimination, substantive equality and state obligation espoused in the CEDAW, including its relevant General Recommendations (GR) as well as relevant provisions in other international human rights instruments and climate agreements.

The findings and recommendations of the assessment will serve as a critical resource in strengthening institutional, legal, policy and implementation frameworks to advance climate justice for women and girls and ensure their meaningful participation in climate action.

The assessment focuses on laws under four key areas of relevance to climate action: a) climate and the environment; b) disaster risk reduction; c) equal rights to land and resources; and d) gender-based violence against women, including in emergencies. The CEDAW with its key principles of non-discrimination, substantive equality, and State obligation is the overarching analytical tool for the review.

### 1.3 Methodology

A desk review of laws, including those relating to climate and environment, disaster risk reduction and management (DRRM), land and natural resources, social protection, gender-based violence, as well as women's participation and leadership, was carried out in early 2023. Based on the desk review, an initial analysis was developed and presented during a multistakeholder validation workshop held on 31 May 2023 in Metro Manila, Philippines. The workshop included representatives from government and civil society organizations, allowing them to reflect and engage on existing climate- and environment-related laws and formulate legislative recommendations to advance women's human rights in disaster and climate change contexts.

Following the workshop, prioritization and further analysis of laws were undertaken. Recommendations were also reformulated at this stage. A total of 53 laws<sup>13</sup> on climate and environment (13), DRRM (two), gender-based violence (eight), land and natural resources (16), participation and leadership (five), as well as social protection and welfare (11) were reviewed. Jurisprudence from the Supreme Court of the Philippines and relevant documents, such as the

outcomes of the National Inquiry on Climate Change, undertaken by the Commission on Human Rights (CHR), were also analyzed.

The legal assessment was specifically supported through technical reviews, consultations and inputs by representatives of the Climate Change Commission (CCC), the Department of Environment and Natural Resources (DENR), the Philippine Commission of Women (PCW) and the IDLO.

## PART 2.

# The Philippines' Global Commitments on Gender Equality, Climate and the Environment

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## 2.1 Overview of the Philippines' Global Commitments on Gender Equality and Human Rights

The Philippines has ratified almost all the international human rights treaties (see Annex 1: Ratification of Global Gender Equality and Human Rights Instruments by the Philippines). Among the first international human rights commitments signed by the Philippines were the International Convention on the Elimination of All Forms of Racial Discrimination (07 March 1966), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both signed on 19 December 1966 and eventually ratified). Although these conventions were not specifically focused on women's human rights, they served as bases of legislation to promote their rights in different spheres.

The Philippines signed the CEDAW on 15 July 1980 and ratified it on 05 August 1981. The CEDAW-OP was signed on 21 March 2000 and ratified on 12 November 2003. Other ratified conventions directly related to women's human rights are the Convention Against Transnational Organized Crime and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Notably, the Philippines withdrew from the International Criminal Court's Rome Statute in 2019.

## 2.2 Overview of the Philippines' Global Commitments on Climate and the Environment

The Philippines ratified the UNFCCC in 1994, the Kyoto Protocol in 2003 and the Paris Climate Agreement in 2017 (see Annex 2: Ratification of Global Climate and Environment Instruments by the Philippines). It communicated its NDC to the UNFCCC in 2021. The NDC commits to projected GHG emissions reduction and avoidance of 75 per cent, 2.71 per cent of which is unconditional and 72.29 per cent is conditional, from 2020 to 2030 for the sectors of agriculture, waste, industry, transport and energy as part of its climate change mitigation strategy. It also promised to undertake climate change adaptation measures in agriculture, forestry, coastal and marine ecosystems, biodiversity, health and human security. Furthermore, the NDC emphasized the importance of "meaningful participation of women, children, youth, persons with diverse sexual orientation and gender identity, differently abled, Indigenous Peoples, elderly, local communities, civil society, faith-based organizations, and the private sector"<sup>14</sup> in implementing climate actions.

The Philippines also adopted the Hyogo Framework for Action in 2005 and its successor, the Sendai Framework for Disaster Risk Reduction, in 2015.

At the regional level, the Philippines, as a member of ASEAN, is further committed to the UNFCCC.<sup>15</sup> The ASEAN joint statement on climate change provides that all members "recognize climate change's negative impacts on basic human needs such as food, water,

energy, clean and green environment, and health, including ecosystems, with disproportionate effects on vulnerable groups, including women, children, older people, people with disabilities, and people living in rural and remote areas and those who are socio-economically disadvantaged.” ASEAN member parties call upon States Parties to the UNFCCC and its Paris Agreement to “increase meaningful and equal participation of women in efforts to manage the impact of climate change to ensure gender-responsive implementation and means of implementation.”

ASEAN has a number of relevant regional instruments that also contribute to the global climate and environment, specifically:

- Agreement on Transboundary Haze Pollution<sup>16</sup>
- ASEAN Declaration on Environmental Sustainability<sup>17</sup>
- 2007 Singapore Declaration on Climate Change, Energy, and the Environment<sup>18</sup>
- ASEAN Human Rights Declaration<sup>19</sup>
- The Action Plan on Joint Response to Climate Change; The ASEAN Sociocultural Community Blueprint (ASCC) 2025<sup>20</sup>

In 2022, ASEAN published a study on the state of gender equality and climate change in the region.<sup>21</sup> The study provided a gender-based analysis of climate change adaptation and mitigation strategies, with a focus on renewable energy, disaster risk responses, and agriculture. It highlighted that gender inequalities are further exacerbated because of climate change, emphasizing that “existing social stratifications” further increase vulnerabilities, reducing access to key resources and decision-making powers.<sup>22</sup>

## 2.3 Specific Recommendations to the Philippines on Gender, Climate, and the Environment by International Human Rights Treaty Bodies

The Philippines submitted its combined Seventh and Eighth Reports to the CEDAW Committee in 2015.<sup>23</sup> In this report, the State Party noted the various developments it has undertaken to pursue gender equality and women’s empowerment in the context of climate, the environment, disasters, and land, among others, such as:

- Enhancements of the National Climate Change Action Plan 2011-2028 and the National Disaster Risk Reduction and Management Plan 2020-2030 to make these more gender-responsive and rights-based and increase the resilience of vulnerable sectors to climate change and natural disasters;
- The CCC’s Resolution 2019-02 calling for the mainstreaming of gender-responsive approaches to the formulation and implementation of climate change policies, plans, programmes, and activities;
- Integration of DRRM and climate change adaptation in the various plans and frameworks under the Philippine Disaster Risk Reduction and Management Act of 2010;
- Inclusion of gender mainstreaming in the country’s National Strategic Framework and Program on Climate Change;
- Membership of the PCW in the CCC Advisory Board and the Technical Working Group of the Green Climate Fund Designated Authority of the Philippines and the People’s Survival Fund Board; and
- Implementation by the Department of Social Welfare and Development (DSWD) of emergency shelter assistance, food/cash for early recovery, and cash-for-work for climate change adaptation and mitigation.

Based on this combined Seventh and Eighth Reports, the CEDAW Committee issued its concluding recommendations, which highlighted the following:<sup>24</sup>

- “Further accelerate its achievement of substantive gender equality and the full realization of human rights for women, in particular by strengthening a gender-sensitive approach to development, peace and security, transitional justice, migration, disaster risk reduction, preparedness and response, and the mitigation of the negative impacts of climate change, with special attention paid to women facing multiple and intersecting forms of discrimination. The Committee also recommends that the State party ensure the active and meaningful participation of women and women’s rights organizations in such processes.”
- On gender-based violence against women
  - “Systematically collect comprehensive and disaggregated data on gender-based violence against women in displacement, armed conflict, disaster, migration, and trafficking situations, as well as on gender-based violence against women with disabilities.”
- On trafficking and exploitation of prostitution
  - “Address the root causes of and women’s vulnerability to trafficking, particularly in the context of disasters, conflicts and displacements.”
- On rural women
  - “Ensure that rural women have access to adequate food, nutrition, water and sanitation, taking into account international human rights standards on such rights.”
  - “Eliminate income discrimination against rural women compared with rural men, and improve rural working conditions by setting living wages, with urgent attention paid to the informal sector.”
  - “Ensure the integration and mainstreaming of a gender perspective into all agricultural and rural development policies, strategies, plans and programs, enabling rural women to act and be visible as stakeholders, decision-makers and beneficiaries.”
- On disadvantaged groups of women
  - “Ensure that the policies, projects and practices relating to development and land governance, including those that may entail relocation, are fully in line with relevant international standards, including the basic principles and guidelines on development-based evictions and displacement and that victims of forced eviction and relocation are provided with effective remedies, including compensation, promptly.”
  - “Fully consult Muslim (Bangsamoro) and non-Muslim Indigenous communities to identify and implement innovative solutions to land management that ensure women’s rights in line with the rights of non-Muslim Indigenous Peoples enshrined in the Indigenous Peoples’ Rights Act of 1997 (Republic Act No. 8371) and the United Nations Declaration on the Rights of Indigenous Peoples, as well as with those of Bangsamoro communities.”
  - “Investigate and prosecute all acts of violence against Indigenous women human rights defenders, provide effective remedies to the victims and prevent the recurrence of such acts.”
  - “Ensure the protection of internally displaced women from violence and their effective access to social services and economic development.”
- On natural disasters and climate change
  - “Consistently prioritize the protection of women’s rights, in particular protection from gender-based violence, in situation analyses, needs assessments and interventions relating to disaster risk reduction, preparedness and response to natural disasters, as well as in the mitigation of the negative impacts of climate change.”
  - “Ensure the full and meaningful participation of women, including those who face multiple and intersecting forms of discrimination, in designing, implementing and monitoring relevant legal and policy frameworks.”
  - “Regularly assess the effectiveness of relevant legal and policy frameworks in protecting women’s rights with clear baselines and measurable indicators and provide information



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on the achievements made in the next periodic report.”

- On marriage and family relations
  - “Eliminate the root causes of child and forced marriage, including poverty, conflicts and insecurity, as well as vulnerability to the impact of natural disasters.”

On 3 November 2022, the Philippines submitted its national report to the UN Human Rights Council.<sup>25</sup> The report devoted a section on protecting the environment and addressing climate change, highlighting the submission of the NDC in 2021 and upholding the importance of women’s participation, among other sectors, in implementing climate actions. It also reflected the various policy frameworks such as the:

- National Framework Strategy on Climate Change, 2010-2022
- National Climate Change Action Plan, 2011-2028
- Philippine Development Plan, 2017-2022
- Philippine Energy Plan, 2018-2040
- National Climate Risk Management Framework of 2019

- Sustainable Finance Policy Framework of 2020

Aside from those frameworks, the Philippines reported the collaboration between the CCC and the PCW in attaining inclusive climate action in its review of the implementation of the Environment and Climate Change component of the Beijing Platform for Action.

It also reported that, to date, more than 5.7 million hectares of land and water, or about one-sixth of the country, have been duly titled in the name of Indigenous Peoples (IPs), i.e., 257 Certificates of Ancestral Domain Titles (CADTs) and Certificate of Ancestral Land Title (CALTs) issued to 1.3 million rights holders that are IPs. However, the report did not indicate sex-disaggregated data of IP beneficiaries.

Based on this report, the UN High Commissioner for Human Rights released a report about human rights in the Philippines on 29 June 2020.<sup>26</sup> The report highlighted the challenges faced by Indigenous women in their roles as defenders of their communities and natural resources. It documents several cases where these women encounter significant threats, including harassment and various forms of violence. The report also stressed that the lack of accountability for perpetrators increases the vulnerability of these defenders. Additionally, Indigenous Peoples, were

identified to be a group particularly vulnerable to such violence.<sup>27</sup>

The report of the UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli Corpuz, on the rights of Indigenous women and girls underscores the barriers Indigenous women face in accessing justice and political participation, which exacerbates their vulnerability to the impacts of climate change. Despite their critical role in climate adaptation, women's contributions are often overlooked, and their rights insufficiently protected.<sup>28</sup>

Given these, the High Commissioner calls the Government of the Philippines to address these issues:

- Accountability
    - “Empower an independent body to conduct prompt, impartial, thorough, transparent investigations into all killings, and into alleged violations of international humanitarian law, with a view to prosecution and the provision of remedies for victims and their families.”
    - “Improve systems for compiling and publishing consistent, disaggregated data on all allegations of extrajudicial killings.”
    - “Improve cooperation between law enforcement bodies and the Commission on Human Rights; strengthen the investigative and forensic capacity of the Commission, including through the adoption of the Commission on Human Rights Charter; and adopt legislation establishing a national preventive mechanism on torture.”
  - On civic space
    - “Take confidence-building measures to foster trust with civil society organizations and facilitate their engagement with State institutions mandated to respond to human rights concerns, without reprisal; and halt—and condemn—incitement to hatred and violence and other harmful, threatening and misogynistic rhetoric against human rights defenders and other critics of the Government, both offline and online.”
    - “Ensure that the rights to freedom of expression, association and peaceful assembly are respected and protected; drop politically motivated
- charges against human rights defenders, political opponents, journalists and media organizations, legal and judicial officials, trade unionists, church workers, and others, and take legal measures to ensure their protection, particularly following threats, including of gender-based violence; and ensure there are no reprisals against persons and entities that engaged with OHCHR for the present report.”
- On Indigenous Peoples
    - “Fully and comprehensively implement the Indigenous Peoples’ Rights Act, and address, together with affected communities, major challenges impeding the proper functioning of the Act.”
    - “Ensure full respect for the principle of free, prior and informed consent and meaningful participation at all stages of development projects that affect indigenous communities.”

## PART 3.

# Administrative Bodies on Gender and Climate in the Philippines

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The Philippines has established several executive and administrative bodies that play a vital role in the development, implementation and management of policies, as well as the coordination of action at the nexus of gender and climate. The following are selected key authorities working respectively to advance gender equality and effectively respond to the challenges arising from climate change in the Philippines, detailing their mandate, function and composition.

### 3.1 Department of Environment and Natural Resources

The DENR was established under Executive Order 192 s. 1987.<sup>29</sup> The Department is the primary agency responsible for the conservation, management, development, and proper use of the country's environment and natural resources. Specifically, forest and grazing lands, mineral resources (including those in reservation and watershed areas), and lands of the public domain. Additionally, the Department handles the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos.

The functions of the DENR are to:

- a. Advise the President on the enactment of laws relative to the development, use, regulation, and conservation of the country's natural resources and the control of pollution;
- b. Formulate, implement, and supervise the government's policies, plans, and programmes about the management, conservation, development, use, and replenishment of the country's natural resources;
- c. Promulgate rules and regulations by the law governing the exploration, development, conservation, extraction, disposition, use, and such other commercial activities tending to cause the depletion and degradation of our natural resources;
- d. Exercise supervision and control over forest lands, alienable and disposable lands, and mineral resources, and in the process of exercising such control, the Department shall impose appropriate payments, fees, charges, rentals, and any such form of levy and collect such revenues for the exploration, development, utilization or gathering of such resources;
- e. Undertake exploration, assessment, classification, and inventory of the country's natural resources using ground surveys, remote sensing, and complementary technologies;
- f. Promote proper and mutual consultation with the private sector involving natural resources development, use, and conservation;
- g. Undertake geological surveys of the whole country, including its territorial waters;
- h. Establish policies and implement programmes on the environment;
- i. Promulgate rules and regulations on cadastral and emancipation patent surveys, land use planning, and public land titling; forest resources and mineral resources;
- j. Regulate the development, disposition, extraction, exploration, and use of the country's forest, land, and mineral resources;
- k. Assume responsibility for the assessment, development, protection, conservation, licensing, and regulation as provided for by law, where applicable, of all natural resources; the regulation



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- and monitoring of service contractors, licensees, lessees, and permittees for the extraction, exploration, development, and utilization of natural resource products; the implementation of programmes and measures with the end given promoting close collaboration between the government and the private sector; the effective and efficient classification and sub-classification of lands of the public domain; and the enforcement of natural resources laws, rules, and regulations;
- l. Promulgate rules, regulations, and guidelines on the issuance of co-production, joint venture or production sharing agreements, licenses, permits, concessions, leases, and such other privileges and arrangements concerning the development, exploration, and utilization of the country's natural resources and shall continue to oversee, supervise and police our natural resources; to cancel or cause to cancel such privileges;
  - m. and arrangements upon failure, non-compliance or violations of any regulations, orders, and for all other causes which are in furtherance of the conservation of natural resources and supportive of the national interests;
  - n. Exercise exclusive jurisdiction on the management and disposition of all public domain lands and shall continue to be the sole agency responsible for classification, sub-classification, surveying, and titling of lands in consultation with appropriate agencies;
  - o. Implement measures for the regulation and supervision of the processing of forest products, grading and inspection of lumber and other forest products, and monitoring of the movement of timber and other forest products;
  - p. Promulgate rules and regulations for the control of water, air, and land pollution;
  - q. Promulgate ambient and effluent standards for water and air quality, including the allowable levels of other pollutants and radiations;
  - r. Promulgate policies, rules, and regulations for the conservation of the country's genetic resources and biological diversity, and endangered habitats;
  - s. Formulate an integrated, multi-sectoral, and multi-disciplinary National Conservation Strategy, which will be presented to the Cabinet for the President's approval; and

- t. Exercise other powers and functions and perform such acts as necessary, proper, or incidental to attain its mandates and objectives.

### 3.2 Climate Change Commission

The CCC of the Republic of the Philippines, established by the Climate Change Act, is an independent and autonomous body with the same status as a national government agency, and attached to the Office of the President.

The CCC is the lead policy-making body of the government tasked to coordinate, monitor and evaluate government programmes and ensure mainstreaming of climate change in national, local, and sectoral development plans towards a climate-resilient and climate-smart Philippines. The Commission undertakes the following functions:

- a. Ensure the mainstreaming of climate change, in synergy with disaster risk reduction, into the national, sectoral, and local development plans and programmes;
- b. Coordinate and synchronize climate change programmes of national government agencies;
- c. Formulate a Framework Strategy on Climate Change to serve as the basis for a programme for climate change planning, research and development, extension, and monitoring of activities on climate change;
- d. Exercise policy coordination to ensure the attainment of goals set in the framework strategy and programme on climate change;
- e. Recommend legislation, policies, strategies, programmes, and appropriations for climate change adaptation and mitigation and other related activities;
- f. Recommend critical development investments in climate-sensitive sectors, such as water resources, agriculture, forestry, coastal and marine resources, health, and infrastructure to ensure the achievement of national sustainable development goals;
- g. Create an enabling environment for the design of relevant and appropriate risk-sharing and risk-transfer instruments;
- h. Create an enabling environment that shall promote broader multi-stakeholder participation and integrate climate change mitigation and adaptation;
- i. Formulate strategies for mitigating GHG and other anthropogenic causes of climate change;
- j. Coordinate and establish a close partnership with the National Disaster Coordinating Council to increase efficiency and effectiveness in reducing people's vulnerability to climate-related disasters;
- k. In coordination with the Department of Foreign Affairs, represent the Philippines in climate change negotiations;
- l. Formulate and update guidelines for determining vulnerability to climate change impacts and adaptation assessments and facilitate the provision of technical assistance for their implementation and monitoring;
- m. Coordinate with local government units and private entities to address vulnerability to climate change impacts of regions, provinces, cities, and municipalities;
- n. Facilitate capacity building for local adaptation planning, implementation, and monitoring of climate change initiatives in vulnerable communities and areas;
- o. Promote and provide technical and financial support to local research and development programmes and projects in vulnerable communities and areas; and
- p. Oversee the dissemination of information on climate change, local vulnerabilities and risks, relevant laws and protocols, and adaptation and mitigation measures.

The CCC is composed of the President of the Republic of the Philippines as the chairperson and three commissioners to be appointed by the President, one of whom shall be the Vice Chairperson of the Commission.

The Commission also has an advisory board, appointed by the President from a list of nominees submitted by the Secretary of the Department of Agriculture; Secretary of the Department of Energy; Secretary of the DENR; Secretary of the Department of Education; Secretary of the Department of Foreign Affairs; Secretary of the Department of Health; Secretary of the Department of the Interior and Local Government; Secretary of the Department of National Defense, in his or her capacity as chairperson of the National Disaster Coordinating Council; Secretary of the Department of Public Works and Highways; Secretary of the Department of Science and Technology; Secretary of the DSWD; Secretary of the Department of Trade and Industry; Secretary of the Department of Transportation and Communications; Director-General of the National Economic and Development Authority, in his or her capacity as chairperson of the Philippine Council for Sustainable Development; Director-General of the National Security Council; Chairperson of the National Commission on the Role of Filipino Women (now known as the Philippine Commission on Women (PCW)); President of the League of Provinces; President of the League of Cities; President of the League of Municipalities; President of the *Liga ng mga Barangay* (League of *Barangays*); representative from the academe; representative from the business sector; and representative from non-governmental organizations. At least one of the sectoral representatives comes from the disaster risk reduction community.

### 3.3 Philippine Commission on Women

The PCW was established by Republic Act No. 9710 (The Magna Carta of Women). The PCW is the primary policymaking and coordinating body of women and gender equality concerns. It is the body responsible for overall monitoring and oversight to ensure the implementation of The Magna Carta of Women.

The mandate of the PCW is to:

- a. Coordinate the preparation of Philippine development plans for women as well as for their monitoring assessment and updating, in cooperation with the national planning body and line agencies;

- b. Act as a clearinghouse and database for information relating to women;
- c. Conduct gender consciousness-raising programmes;
- d. Conduct policy studies and review legislation to integrate women's concerns;
- e. Provide technical services and ensure the development of institutional capabilities for gender and development (GAD) mainstreaming of government agencies and selected partners;
- f. Monitor and assess the implementation of laws and policies on women, including the implementation of international conventions such as the Beijing Platform for Action; and
- g. Implement pilot projects to deliver services for women as the basis for policy formulation and programme recommendations.

The Commission is composed of a Chairperson appointed by the Philippine President and representatives from the line agencies addressing agriculture, budget and management, education, foreign affairs, interior and local government, health, labour and employment, social welfare and development, trade and industry, and the National Economic and Development Authority, as well as civil society representing diverse sectors including business, industry, farmers, fisherfolk, IPs, persons with disabilities (PWD), senior citizens, youth and others.

## PART 4.

# Legal Analysis of Domestic Laws

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### 4.1 The Philippine Constitution

The prevailing constitution in the Philippines is the 1987 Constitution, adopted during the term of the country's first female president, Corazon Cojuangco Aquino. For the first time, language on women's rights was articulated in the supreme law of the land. In its Declaration of State Principles and Policies, Article II, Section 14 recognizes the role of women in nation-building and guarantees the fundamental equality between men and women before the law. In the same article, comprehensive rural and agrarian reform is promoted under Section 21 and the rights of Indigenous Cultural Communities (ICCs) are recognized and promoted under Section 22.

Article VI, Section 5 opened opportunities for women to have seats in the House of Representatives as party-list members of marginalized sectors, aside from the usual elective posts of district representatives.

Article XIII, Section 11, on the other hand, called for adopting an integrated and comprehensive approach to health, prioritizing the sick, elderly, disabled, women and children. Section 14 of the same article stipulated the protection of women by providing safe and healthful working conditions that enable them to realize their full potential.

In the Article XII on the national economy and patrimony, Section 1 calls for a more equitable distribution of opportunities, income and wealth, a sustained increase in the production of goods and services for the benefit of the people, aiming to enhance productivity and improve the quality of life for all, especially the underprivileged as ultimate goals of the national economy. Section 2 stipulates that all lands of public domain, waters, minerals, coal, petroleum, other mineral oils, all sources of potential

energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. The State shall also fully control and supervise the nation's exploration, development, and utilization of natural resources. It shall also protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, reserving their use and enjoyment for its citizens. Section 3 classifies public domain lands into agricultural, forest or timber, mineral lands, and national parks.

Article X, Section 20, concerning autonomous regions, grants legislative powers over ancestral domains and natural resources to regional governments. For example, in the Philippines, there are two autonomous regions: the Cordillera Administrative Region and the newly formed Bangsamoro Autonomous Region in Muslim Mindanao (BARMM). Both areas are not only rich in natural resources but are predominantly inhabited by Indigenous Peoples and faced with layers of armed conflict and natural disasters.

Addressing agrarian and natural resources reforms, Article XIII calls on the State to undertake an agrarian reform programme anchored on the rights of farmers and the landless. It also stipulates incentives for voluntary land sharing and recognizes the rights of farmers and cooperatives to participate in the planning, organization and management of the agrarian reform programme, as well as provides with various support to agriculture. The preferential use of local marine and fishing resources also protects the rights of fisherfolk. Similarly, the State shall support fisherfolks with additional marine and fishing resources.

Under general provisions, Art XVI, Section 12, the Congress is authorised to establish a consultative body to advise the President on policies affecting ICCs.

## 4.2 The Magna Carta of Women

On 14 August 2009, The Magna Carta of Women was enacted, serving as the domestic translation of CEDAW into the national legal system. Besides defining discrimination against women in Article 1 of the Convention, The Magna Carta of Women ensures women substantive equality, attesting to the obligations of the State as the primary duty-bearer in protecting, promoting, and fulfilling women's human rights and gender equality. This law was a response to the State's Concluding Comments to the Combined 5th and 6th Periodic Report of the Philippines to the CEDAW Committee, calling for the passage of a law defining anti-discrimination since the ratification of the Convention in 1981.

The law affirms crucial principles such as women's human rights, the role of women in nation-building, women's empowerment, and the integration of women's concerns in the mainstream of development. It enumerates the rights and empowerment of all women, with particular emphasis on women in marginalized sectors, such as Indigenous women, rural women, Moro women, women with disabilities, and girl-children, among others. It also emphasizes "the right of women in all sectors to participate in policy formulation, planning, organization, implementation, management, monitoring and evaluation of all programs, projects and services".<sup>30</sup>

The law lays down the obligations of the State and its instrumentalities. It sets up the institutional mechanisms necessary to realize gender equality, such as the gender mainstreaming focal point system, gender and development budget, the national women's machinery—from the National Commission on the Role of Filipino Women to the PCW—and the assignment of the CHR as the Gender Ombudsman.

Under Rule IV, Section 9(b), the State is mandated to protect all women from all forms of violence, including in situations of emergency, armed conflict, and militarization. Importantly, it provides that the State "shall not force women, especially Indigenous Peoples, to abandon their lands, territories, and means of subsistence, or relocate them in special centres for military purposes under any discriminatory

condition". In the same context, the State must provide immediate humanitarian assistance, allocate resources, and facilitate early resettlement, with services such as psychosocial support, livelihood, education, and comprehensive health services, including reproductive health. It shall also ensure the participation of women in disaster management, including preparedness, mitigation, risk reduction and adaptation. The collection and use of age- and sex-disaggregated data are called for in rapid and comprehensive assessments for humanitarian response. Camp managers in humanitarian settings shall also ensure the prevention of sexual violence in evacuation centres and relocation sites, including but not limited to security and safety as criteria for the selection of evacuation sites, separate functional and well-lit latrines for women and men with locks, bathing facilities with privacy, regular security patrols involving preferably female police officers and prohibition of gambling and use of illegal substances. Additionally, women shall be actively involved in camp committees managing food and water distribution, nutrition, sanitation and hygiene, shelter, health, education, protection, and safety.

Rule V, Section 20 highlights women's contribution to food production. The State is obligated to ensure food security at all times, paying "particular attention to the specific needs of poor girl-children and marginalized women, especially pregnant and lactating mothers and their young children". As regards women's participation in food production, the law requires the State to "guarantee women a vital role in food production," including prioritizing women's rights to land, credit and infrastructure support, and technical assistance.<sup>31</sup> Further, the emphasis on ensuring women's participation in *all* programmes, projects and services indicates that this extends to the plans and programmes of the Department of Agriculture, although it is not explicitly stated in the Law. Section 20(b)(11) requires the recognition, encouragement and protection of the practices of Indigenous women in seed storage and cultivation.

Concerning social protection and welfare, this law also calls for institutionalizing policies and programmes that reduce women's poverty, vulnerability to risks, and protection from hazards.



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The Magna Carta of Women exemplifies its role as the framework law on women’s human rights in the Philippines. However, it has been noted that legal and regulatory provisions need to be in place to:

- Specify a timeline for Article IV Section 12 (D), which directs all *barangays* to establish a Violence Against Women (VAW) Desk, especially considering gender-based violence (GBV) in displacements caused by natural and human-induced disasters.
- Identify a completion time for Article IV Section 14, Participation and Representation, Letter (B), which directs that in all levels of development planning and programme implementation, at least 40 per cent of membership of all development councils at the regional, provincial, city, municipal, and *barangay* levels shall be composed of women to ensure that women are represented and meaningfully participate in DRRM as well as climate change adaptation planning.
- Fast-track the passage of the law protecting persons against violence and discrimination based on sexual orientation and gender identity, upholding the UN Human Rights Council Resolution 32/2 (2016). This should include Lesbian, Gay, Bisexual, Transgender,

Queer and Intersex (LGBTQI) individuals that face discrimination, especially during post-disaster relief, recovery, and rehabilitation.

### 4.3 Land and Natural Resources

The CEDAW Article 13 provides that State parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life. Furthermore, Article 14, Section 2(g) mandates that State parties must take all appropriate measures to eliminate discrimination against women in rural areas and provide opportunities for women to participate in and benefit from rural development. Women shall be guaranteed access to agricultural credit and loans, marketing facilities, appropriate technology, and equal treatment in land and agrarian reform and land resettlement schemes.

Under the CEDAW Committee’s General Recommendation No. 37 on gender-related dimensions of disaster risk reduction in a changing climate (GR 37), State parties must identify and eliminate all forms of discrimination, including intersecting forms of discrimination against women in legislation, among others, relating to disaster risk reduction and climate

change. GR 37 provides that the State should give particular priority to addressing discrimination “in relation to the ownership, access, use, disposal, control, governance, and inheritance of property, land, and natural resources”.<sup>32</sup> GR 37 also calls for State parties to ensure affordable or, if necessary, free legal access to legal services, including legal aid, official documents, land registration documents, and deeds.

General Recommendation No. 39 on the rights of Indigenous women and girls (GR 39) calls on State parties to ensure that economic activities, including those related to logging, development, extraction, and mining, among others, are only implemented in Indigenous territories and protected areas with the participation of women, including full respect for their right to Free, Prior, and Informed Consent (FPIC) adequate consultation process.

Over the decades, Philippine laws have progressed to grant women land and ownership rights. Act No. 496 (The Land Registration Act) initially required women to seek the consent of their husbands to apply for the registration of deeds. Presidential Decree No. 1529 (Property Registration Decree) later removed this provision. Republic Act No. 6657 (Comprehensive Agrarian Reform Law of 1988) initially assumed that all farmers were male, but Republic Act No. 9700 (Comprehensive Agrarian Reform Program Extension with Reforms (CARPER)) recognized rural women’s right to own and control land independently of their male relatives and civil status. However, only 45.19 per cent of women have been granted the Certificate of Land Ownership Agreement (CLOA) under these laws.<sup>33</sup> This may be reflective of the inheritance practice in rural areas that results in women often receiving non-land assets;<sup>34</sup> women’s lack of access to information, legal support, and resources; and the lack of government consideration for women’s domestic or reproductive roles when setting in place procedures and systems for the application of CLOA.

The Indigenous Peoples’ Rights Act of 1997 guarantees that Indigenous women enjoy equal rights and opportunities with men as regards the social, economic, political, and cultural spheres of life. Under the same law, forming a council of leaders<sup>35</sup> is necessary for titling ancestral domain. Such council

of leaders, however, is often male-led and follows a line of male succession within clans; hence, limiting women’s participation. However, before awarding the CADT, another much larger tribal council of elders<sup>36</sup> is formed. In this council, members are chosen based on leadership skills, not bloodlines, allowing women to participate in managing community projects, although men still dominate this council.

Despite their representation in the larger tribal council of elders, women have a minimal role in the tribe’s ancestral domain claim. They are primarily attendees of consultations and activities. Some women assist in preparing genealogy and land surveys as documenters or guides, while more women are involved as cooks and servers during meetings and consultations. Notwithstanding their exposure to these activities, women have little knowledge of the process of the CADT application or about the participation process in formulating the Ancestral Domain Sustainable Development and Protection Plan, which regulates the use of natural resources within the ancestral domain upon the awarding of the CADT. Moreover, women’s concerns in the Plan are confined to livelihood and health issues. As a CADT is awarded, the assumption is that the ancestral domain is legally owned by ICCs and governed by the Council of Elders. In practice, however, it is the male leaders of the clan who own the land and have the power to distribute it to families or individual members within the clan.<sup>37</sup>

Land laws must ensure the representation and participation of women and other marginalized groups. For example, in Republic Act No. 7160 (Local Government Code of 1991), the reclassification of agricultural lands can only occur after public hearings and only for the following cases: 1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture, or 2) where the land has substantially greater economic value for residential, commercial or industrial purposes as determined by the *sanggunian* (local legislature). The provision, however, does not specify the participation of women and marginalized groups in these public hearings nor establishes safeguards against the politicization of land reclassification decisions.

Republic Act No. 8435 (Agriculture and Fisheries Modernization Act of 1997) spells out women's access to credit, business information, and training. While women and marginalized groups are included in formulating the Agriculture and Fisheries Modernization Plan, laws should guarantee their participation in such a process. Republic Act No. 7586 (National Integrated Protected Areas System Act of 1992) and The Indigenous Peoples' Rights Act of 1997 guarantee the representation and participation of women and ICCs as in the case of the Protected Area Management Board (PAMB) and various development interventions in ancestral domains and lands. Republic Act No. 7942 (Philippine Mining Act of 1995), The Indigenous Peoples' Rights Act of 1997, and Republic Act No. 11054 (Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao) underscore the requirement of FPIC among members of ICCs and IPs. However, in most cases, the consent of ICCs and IPs is given without sufficient information. As a result, the concept of "majority rule" (50 per cent + 1) is being widely used by ICCs rather than the seemingly more tedious yet expansive process of the FPIC.<sup>38</sup> While the above-mentioned laws indicate the FPIC of IPs and ICCs, it is uncertain how women are represented and meaningfully participate in consultations about land and other development interventions in ancestral domains.

### Understanding Free, Prior and Informed Consent (FPIC)

The UN Expert Mechanism on the Rights of Indigenous Peoples has provided guidance on a human rights-based approach to FPIC. They explain that the FPIC operates as an important safeguard for the collective rights of IPs, including the right to "self-determine their political, social, economic and cultural priorities".<sup>39</sup> The FPIC requires consent in the sense that it is obtained without "intimidation, coercion, manipulation... or harassment," with relationships between parties built on trust and good faith, ensuring Indigenous Peoples' freedom to be represented as required under their own laws and customs, with attention paid to gender representation.<sup>40</sup> Indigenous Peoples should be free to guide and direct their processes, set their expectations and contribute to the determination of key issues such as "method, timelines, locations and

evaluations".<sup>41</sup> The process to obtain FPIC should begin as early as possible, and consent should be obtained *before* a proposal is permitted to proceed. The process should be informed by providing sufficient, objective, accurate and clear information, delivered in a way that is understandable to IPs and sensitive to language differences and culturally appropriate procedures. The Expert Mechanism calls for all parties to ensure representation of women in the process, including encouraging the inclusion of women in the representative decision-making institutions of IPs, acknowledging that the "governance structures of some Indigenous communities may be male dominated".<sup>42</sup> In obtaining the FPIC, the rights and special needs of women, and other groups, as well as the potential impact of the proposal on them, must be taken into consideration.

Among the land and natural resources laws reviewed, there is no specific provision for women's access to affordable legal services, including legal aid, official documents, land registration documents, and deeds. This is especially critical for women as disputes may often arise in relation to land. Overlapping tenurial arrangements for agricultural, forest, timber lands, protected areas, and national parks continue to create confusion and spawn disputes. For example, while the objective of the Indigenous Peoples' Rights Act of 1997 is to protect the ancestral domains and lands of ICCs and IPs, it overlaps with the mandates of other institutions. The Land Management Bureau of the DENR is mandated to delineate public lands and issue titles for alienable and disposable lands.

Once the titling is complete, a copy of the "mother title" is lodged at the Register of Deeds of the Land Registration Authority (LRA). While both the DENR and the LRA have regional and provincial offices (and in some cases, municipal), they do not necessarily coordinate with one another.<sup>43</sup> The DENR keeps cadastral maps and survey records but does not have complete title information, while the LRA only has title information. The Forest Management Bureau of the DENR issues the Community-based Forest Management Agreement (CBFMA) and the Integrated Forest Management Agreement, an agreement between the DENR and a private partner for industrial forest exploitation.

Overlaps in titling can also occur in relation to forest lands, which highlights the need for coordination among the DENR, Department of Agrarian Reform and the National Commission on Indigenous Peoples (NCIP). The Department of Agrarian Reform is mandated with land distribution under CARPER. It issues the CLOA to farmers on the same lands titled by the DENR. In some cases, there are CLOAs issued in ancestral domains.

## Understanding CLOA, CSC, NIPAS, CADT and CALT

For agricultural lands, the Comprehensive Agrarian Reform Law of 1988 calls for the provision of the CLOA issued by the Department of Agrarian Reform to farmers. In contrast, Commonwealth Act 141 (The Public Land Act) calls for the issuance of free patents issued by the DENR to occupants who have had agricultural lands for 30 years or more. All titles issued are registered with the LRA; however, there is no land data sharing among agencies, including the local governments, which makes it challenging to determine which lands could be entitled to the issuance of free patents to qualified individuals or families.

Forest management rights and responsibilities were devolved to the local government through the Local Government Code of 1991 for forest or timber lands. Local governments are mandated to implement social forestry and reforestation initiatives; manage communal forests not exceeding 5,000 hectares; protect small watershed areas; and enforce forest laws in social forestry projects. The Integrated Social Forestry programme grants a Certificate of Stewardship Contracts (CSC) to individuals or families occupying or tilling portions of forest lands for 25 years and renewable for another 25 years. Many of these CSCs have expired, considering that in 2011 Executive Order No. 23 prohibited the cutting of trees in natural residual forests. Hence, it is not economically viable for the holders of CSCs to continue their tree plantations. However, this opens access to other interested parties who may have the resources to exploit these forest lands and resources. There are also other instruments, such as the CBFMA, which is a production sharing agreement between the DENR and people's organizations with the same terms as the CSC. Like the CSC, the CBFMA has many instances of non-renewal.

Protected areas or national parks are covered by the National Integrated Protected Areas System (NIPAS) Act of 1992, strengthened by Republic Act No. 11038 (Expanded NIPAS Act of 2018). Under these laws, a Protected Area Management Plan shall be developed and harmonized with the Ancestral Domain Sustainable Development and Protection Plan (ADSPP), considering that protected areas sometimes share areas with ancestral domains and lands. This also necessitates that development projects in these common areas require the FPIC and the Environmental Compliance Certificate (ECC) from the Environmental Management Bureau for projects with potentially significant adverse impacts. The DENR and people's organizations, which may be composed of organized tenured migrant communities or interested Indigenous Peoples in the protected zones and buffer zones, could enter an agreement, the Protected Area Community-based Resource Management, which could last for 25 years and be renewable for another 25 years. The agreement provides tenurial security and incentives to develop, utilize, manage, conserve, and protect community-based programme areas.

The Indigenous Peoples' Rights Act of 1997 covers ancestral domains and lands. The CADT is issued to ICCs. At the same time, the CALT is given to individuals, families, and clans of ICCs. Free patents are also issued to the Indigenous Peoples on lands suitable for agriculture, irrespective of the slope of the land.

While the objective of the Indigenous Peoples' Rights Act of 1997 is to protect the ancestral domains and lands of ICCs and IPs, there are overlaps with other tenurial instruments for agricultural, forest or timber lands, and protected areas or national parks. The Joint Department of Agrarian Reform, DENR, LRA and NCIP Administrative Order (JAO) No. 1- 2012 was supposed to harmonize these overlaps. However, tensions and conflicts arose and continued among farmers, other tenure holders, and ICCs/IPs. The NCIP unilaterally withdrew from the JAO in 2019 due to alleged non-compliance by other agencies to its provisions.

Broader structural issues regarding laws and tenurial instruments often give rise to land conflicts, leading to an administrative resolution process outside the courts. As a result, mediation, and alternative dispute resolution (ADR) measures were established to enable amicable settlements and minimize costs and time to parties. However, ADR has also become a source of conflict among claimants.

Alienable lands of the public domain shall be limited to agricultural lands. Section 4, however, states that

Congress shall determine by law the specific limits of forest lands and national parks for conservation purposes. It shall also conduct measures to prohibit logging in endangered forests and watershed areas. Section 5 guarantees the protection of the rights of ICCs to their ancestral lands to ensure their economic, social, and cultural well-being. The legislature may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

There are fundamental issues regarding Presidential Decree No. 705 (Forestry Reform Code of the Philippines) and the National Integrated Protected Areas System Act of 1992. For example, the Forestry Reform Code of the Philippines calls for industrial development and regulation while the NIPAS Act mandates resource preservation. Under the NIPAS Act, protected areas are classified as national parks, while national parks under the Forestry Reform Code of the Philippines are considered forest reservations. Given the differences in intent between the two laws, what actions in protected areas are allowed or prohibited?

These broader structural issues regarding laws and tenurial instruments bring forth numerous land disputes. Although administrative processes for resolving claims and conflicts, such as mediation and ADR, are in place without the need to go to the courts, many citizens, particularly women, continue to be beset by issues such as accessibility, affordability, timeliness, stigma, and intimidation. These challenges are exacerbated for Indigenous women, poor women, and rural women, among others. The lack of female actors in both formal and informal mechanisms, limited access to legal and justice processes, lack of transparency in operations, and susceptibility to patronage are among the challenges faced by women in accessing justice regarding land and other resources.

### **Act No. 496 (The Land Registration Act), amended by Presidential Decree No. 1529 (Property Registration Decree)**

The Land Registration Act creates the Court of Land Registration which shall have exclusive jurisdiction over

all land and building applications for registration, as well as the offices of the Register of Deeds.

Under this law, a married woman shall not make an application without the consent in writing of her husband unless she holds the land as her separate property or has power to appoint the same or has obtained a decree in court authorizing her to deal with her real estate as though she were sole and unmarried.<sup>44</sup> Also, persons “under disability” may apply for land registration through their legally appointed guardians, but the application shall be made under the guardians’ names. This has been amended by the Property Registration Decree, which removed the provision pertaining to married women.

### **Presidential Decree No. 1529 (Property Registration Decree)**

The Property Registration Decree amends and updates the Act No. 496 (The Land Registration Act) and the various executive decrees on registration of certificates of land transfer and emancipation patents. Under this decree, jurisdiction over all applications related to lands is now transferred from the Court of Land Registration to the Court of First Instance. Additionally, the Land Registration Commission is established and placed under the supervision of the Department of Justice.

The Land Registration Commission serves as the central repository of records of original land registration under the Torrens system, including subdivision and consolidation plans of titled lands, among other functions. On the other hand, Registries of Deeds are established for each province and city, serving as the repository for records of instruments affecting registered or unregistered lands and chattel mortgages.

While the provision for married women to obtain consent from husbands to apply for land registration is no longer stated in this decree, there is an assumption that landowners and applicants are men, given the prevailing use of the pronoun “his” throughout the decree.

## Commonwealth Act No. 141 (The Public Land Act), amended by Republic Act No. 11231 (Agricultural Free Patent Reform Act)

The Public Land Act classifies public lands into categories, such as alienable or disposable, timber, and mineral lands. Alienable and disposable lands, in particular, are further classified as agricultural, residential, commercial, industrial or for similar productive purposes; educational, charitable or other similar purposes; and reservations for town sites and public and quasi-public uses.

Under this law, any natural-born citizen of the Philippines who does not own more than 24 hectares of agricultural public lands land, which has continuously been occupied and cultivated either by oneself or one's predecessor or has paid real estate tax thereon is entitled to have a free patent. A similar provision is stated for Indigenous People. However, upon filing a free patent application, one must not be an owner of any real property under the law. Under Section 48 of this law, citizens as well as national cultural minorities occupying lands of the public domain or who have claims on such lands for at least 30 years but whose titles have not been completed may apply to the Court of First Instance of the province where the land is located for confirmation of claims and issuance of a certificate of title.

Non-Christian Filipinos who have not applied for a homestead but desire to live or occupy land on any reservations set aside from non-Christian tribes may request a one-year permit of occupation for any tract of land not exceeding four hectares. Part of the conditionality is that the cultivation and improvement of the land shall begin within six months after the permit is received. Otherwise, the permit shall be cancelled. Upon the expiration of the one-year term, if the permit holder files for a homestead, one shall be given priority. Otherwise, the land shall be open to disposition at the permit's expiration.

Under Section 84, the Secretary of Agriculture and the President, may, by proclamation, designate any tract or tracts of the public domain for the exclusive use of non-Christian Filipinos, including in the reservation. Note that granting of such tracts of land, not exceeding four hectares, applies to each male member over

eighteen years of age or the head of a family. Further, the Secretary of the Interior shall certify that most non-Christian inhabitants of any given reservation "have advanced sufficiently in civilisation".<sup>45</sup> Then the President may order that the lands of the public domain within such reservation be granted. Lands granted to then non-Christian Filipinos without the authority of the colonial governments of Spain and the United States are declared to be illegal, void, and of no effect, even if these were granted by their customary or traditional leaders such as the sultan, the *datus* or other chiefs.

Under Section 120, conveyance and encumbrance made by non-Christian Filipinos or national cultural minorities shall be made in the language they understand. Otherwise, they shall only be valid if duly approved by the Commission on National Integration Chair, now known as the National Commission on Indigenous Peoples.

In 2018, Sections 118, 119 and 121 of the Public Land Act were amended through the Agricultural Free Patent Reform Act to remove restrictions to lands acquired under free patent or homestead. Under The Public Land Act, free patent or homestead lands were barred from alienation for five years upon issuance of the patent or grant. With the amendments, agricultural-free patents shall be considered titles and shall not be subject to any restrictions. More importantly, this amendment is retroactive, and the removal of restrictions takes immediate effect.

## Presidential Decree No. 705 (Revised Forestry Reform Code of the Philippines)

The Revised Forestry Reform Code of the Philippines revised an earlier policy on forestry, Presidential Decree No. 389. It creates the Bureau of Forest Development, which shall have jurisdiction and authority over all forest land, grazing land, and all forest reservations, including watershed reservations. The bureau is under the DENR.

Under this law, public domain land with a slope of 18 per cent or over shall not be classified as alienable and disposable. Similarly, forest land with a slope of 50 per cent or above shall not be classified as grazing

land. Lands with a slope of 18 per cent or over which have already been declared as alienable and disposable shall be reverted to the classification of forest lands. However, exceptions apply if the land is covered by existing titles or approved public land application, or occupied openly, continuously, adversely and publicly for a period of not less than 30 years as of the entry into force of this Code, as set forth in the Public Land Act.

There are several provisions about timber, wood processing, reforestation, forest protection, and special uses. There are also provisions for incentives, violations, and penalties.

Under the law, a complete census of all *kaingero* (one who clears a forest for farming),<sup>46</sup> informal settlers, ICCs, and other inhabitants of forest lands shall be undertaken to show the extent of their respective occupation and the potential damage or impairment of forest resources. Those who already entered or occupied forest lands before the coming into force of the Code shall not be prosecuted. However, they are not allowed to increase their clearings.

### Republic Act No. 6657 (Comprehensive Agrarian Reform Law), amended by Republic Act No. 9700 (Comprehensive Agrarian Reform Program Extension with Reform (CARPER))

One of the first laws on land reform passed during the time of President Corazon Aquino, the Comprehensive Agrarian Reform Law addressed land issues during the dictatorship period, marked by violent armed conflicts and insurgency in the countryside.

Under this law, lands covered by agrarian reform are as follows:

- a. All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law the specific limits of the public domain.

- b. All lands of the public domain over the specific limits as determined by Congress;
- c. All other lands owned by the Government devoted to or suitable for agriculture; and
- d. All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

The law provides that no person may own or retain more than five hectares of public or private agricultural land. In addition, three hectares may be awarded to each child of the landowner, provided they are at least fifteen years of age and are actively cultivating the land or directly managing the farm. Such provision, however, assumes that such a child is a male by using the pronoun “he” in the actual provision.

Similarly, a farmer is also assumed as a male, using the pronoun “he” in its definition. In the law, a farmer is the “natural person whose primary livelihood is the cultivation of land or the production of crops, either by himself, or primarily with the assistance of his immediate farm household, whether the land is owned by him, or by another person under a leasehold or share tenancy agreement or arrangement with the owner.”<sup>47</sup>

The Department of Agrarian Reform, in coordination with the Presidential Agrarian Reform Council (PARC), is mandated to develop a plan and programme for acquiring and distributing all agricultural lands. The Law also stated the various types of lands prioritized for acquisition and distribution, along with the requirements for registration by landowners and beneficiaries. Additionally, it sets the compensation to landowners upon land acquisition for agrarian reform, incentives for voluntary offers for sale or voluntary land transfer, and the possibility of farmer-beneficiaries’ payment to the landowner. Ownership of land by the beneficiary of agrarian reform is evidenced by a CLOA, which shall be recorded in the Register of Deeds and annotated on the Certificate of Title.

The law has a special provision for rural women. However, it seems to set qualifications as to who can be guaranteed and assured of their rights and benefits rather than covering all women, as indicated in Chapter X, Section 40 (5): “All qualified women members of the agricultural labour force must be guaranteed and

assured the equal right to ownership of the land, equal shares of the farm's produce, and representation in advisory or appropriate decision-making bodies."

The law is said to be implemented immediately and completed within 10 years after its entry into force.

In August 2009, the CARPER was adopted to amend the Comprehensive Agrarian Reform Law of 1988. The law extended the acquisition and distribution of all agricultural lands for an additional five years.<sup>48</sup> Interestingly, the CARPER amends Section 3 of the Comprehensive Agrarian Reform Law of 1988, which previously assumed or defined a farmer as a male; in the amendment, a farmer is defined as "a natural person whose primary livelihood is the cultivation of land or the production of crops, livestock and fisheries either by himself/herself, or primarily with the assistance of his/her immediate farm household, whether the land is owned by him/her, or by another person under a leasehold or share tenancy agreement or arrangement with the owner." In addition to this, the definition of "rural women" has been refined to describe and recognize women's work in the domestic and productive spheres, with the amending Act stating that the term refers to "women who are engaged directly or indirectly in farming and fishing as their source of livelihood, whether paid or unpaid, regular or seasonal, or in food preparation, managing the household, caring for the children, and other similar activities."<sup>49</sup>

This law underscored the recognition and enforcement of laws of the State on the rights of rural women to own and control land, receive a just share of its fruits and benefits, and be represented in advisory or appropriate decision-making bodies. Furthermore, it emphasized that these rights are independent of their male relatives and civil status.

Regarding the final acquisition and distribution of all remaining unacquired and undistributed agricultural lands, Section 5 of the amendment stated that rural women shall be allowed to participate in the development planning and implementation of this law and that in no case should agrarian reform beneficiaries' sex, economic, religious, social, cultural, and political attributes affect land distribution. The PARC is also mandated to adopt, implement, and monitor policies and programmes that ensure gender

equality in agrarian reform programmes, including respect for human rights, social protection and welfare, and decent working conditions for paid and unpaid women and men farmer-beneficiaries.

A new section on support services specific to rural women was included in the law, taking off from the mandate of the PARC. This section extends support services equally to women and men agrarian reform beneficiaries. It also calls for these support services to consider the specific needs of women farmer-beneficiaries. Additionally, the PARC is mandated to ensure that rural women can participate in all community activities and are entitled to self-organize to gain equal access to economic opportunities. On the other hand, the Department of Agrarian Reform is called to establish and maintain a women's desk, intended to formulate, and implement programmes and activities related to protecting and promoting women's rights, as well as serve as a grievance mechanism.

The PARC is also amended to now include the representation of at least one duly recognized national organization of rural women or a national organization of agrarian reform beneficiaries with a substantial number of women members. It also guarantees that at least 20 per cent of PARC members are women, and in no case shall there be less than two women members in said council.

By 2016, the Department of Agrarian Reform has yet to distribute 602,306 hectares of land.<sup>50</sup> Among the areas with the highest percentage of undistributed land are Region V (Bicol Region), Region VIII (formerly the Negros Island Region) and the BARMM – areas overlaid with armed conflict and natural disasters.

### Republic Act No. 7160 (Local Government Code of 1991)

Under the Local Government Code of 1991, a city or municipality may reclassify agricultural lands, through the passage of an ordinance. Reclassification can only be done after conducting public hearings and only for the following cases: 1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture, or 2) where the land has substantially

greater economic value for residential, commercial or industrial purposes, as determined by the *sanggunian* (local legislature). Land reclassification shall be limited as follows: 15 per cent for highly urbanized and independent component cities, 10 per cent for component cities and first to third class municipalities, and five per cent for fourth to sixth class municipalities. Agricultural lands distributed under the Comprehensive Agrarian Reform Law of 1988 shall not be affected by reclassification. However, when public interest so requires and upon recommendation of the National Economic and Development Authority, the President may authorize a city or municipality to reclassify lands over the limits stated in the law.

The preparation of comprehensive land use plans is also required among local governments which will be the bases for future use of land resources and enacted through zoning ordinances. Food production, human settlements and industrial expansion, among others, shall be considered in preparing such plans.

Provinces may level and collect not more than 10 per cent of fair market value per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources extracted from public lands or the bed of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction. Permits to extract such resources shall be issued exclusively by the provincial governor, under the ordinance of the provincial legislature. Proceeds from the tax on such resources are distributed across the local government: 30 per cent for provinces, 30 per cent for component city or municipality and 40 per cent for the *barangay*/s where the resources are extracted.

Also under this law, community-based forest projects, which include integrated social forestry programmes, management and control of communal forests with an area not exceeding fifty square kilometres and the establishment of tree parks, greenbelts and similar forest development projects are implemented at the municipal level, subject to the supervision, control and review of the DENR.

### Republic Act No. 7586 (National Integrated Protected Areas System Act of 1992), amended by Republic Act No. 11038 (Expanded National Integrated Protected Areas System Act of 2018)

Republic Act No. 7586 established a National Integrated Protected Areas System (NIPAS), which is the classification and administration of all protected areas in the country to maintain ecological processes and life-support systems, preserve genetic diversity, ensure sustainable use of resources, and maintain their natural conditions. It covers areas and biologically critical public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones, and related ecosystems—terrestrial, wetland or marine—designated as protected areas.

In this law, a general management planning strategy will guide the formulation of individual plans for each protected area. This strategy shall also provide guidelines for protecting ICCs, other tenured migrant communities, and sites. The DENR is mandated to prescribe rules and regulations to govern ancestral lands within protected areas and control occupancy of suitable portions of the protected area and resettle others outside of the said area. Members of ICCs are exempt from resettlement, except with their consent and following a notice and hearing process involving the affected ICC members. Each protected area is managed by the PAMB, composed of the regional executive director, a representative from the autonomous regional government (as the case may be), a provincial development officer, a representative from the municipal government, a representative from each *barangay* covered by the protected area, a representative from each ICC (as the case may be), at least three representatives from non-government organizations/local community organizations and a representative from other departments or agencies involved in protected area management.

Under the Expanded National Integrated Protected Areas System Act of 1992, the ECC under the Philippine Environmental Impact Assessment (EIA) System is required for activities outside the scope of the management plan for protected areas. In

the expanded NIPAS under the Expanded National Integrated Protected Areas System Act of 2018, the PAMB is reconstituted to include the governor of the province/s where the protected area is located, a member of the Senate and Congress who is a duly registered resident of the city or province where the protected area is located, regional directors of the Department of Agriculture, the National Economic and Development Authority, Department of Science and Technology, Philippine National Police, Department of National Defense, a representative from the academe and the private sector. In addition, women represent 40 per cent of the membership in the PAMB in accordance with The Magna Carta of Women.

The management plan now underscores minimum requirements, including climate change adaptation and mitigation, DRRM, and gender and development as considerations. But, more importantly, it stated that the plan shall be harmonized with other existing plans such as the Ancestral Domain Sustainable Development and Protection Plan under the Indigenous Peoples' Rights Act of 1997, the Comprehensive Land Use Plans under the Local Government Code of 1991, among other local plans.

The law also made amendments to the issuance of the ECC, requiring such development projects and activities with potentially significant adverse impacts as determined by the Environmental Management Bureau, be it included or not in the management plan. For development projects and activities that are not environmentally critical, an initial environmental examination shall be undertaken instead. Each project or activity shall be conducted with prior clearance from the PAMB.

The rights of the ICCs/IPs to conserve biologically significant areas and preserve their heritage are recognized and respected. With this, they are responsible for governing, maintaining, developing, protecting, and conserving such areas, with full and effective assistance from the NCIP, DENR and other government agencies. A mechanism for coordination and complementation between Indigenous traditional leadership and governance structures shall be created with the NCIP, DENR, other government agencies, local governments, and civil society.

## Republic Act No. 7942 (Philippine Mining Act of 1995)

Under the Philippine Mining Act, the exploration, development, utilization and conservation of mineral resources are to be undertaken with combined efforts of the government and the private sector, while enhancing national growth and safeguarding the environment and the well-being of affected communities. In the Philippines, the climate crisis is further exacerbated due to practices such as illegal mining.<sup>51</sup>

It has underscored the recognition and protection of the rights of ICCs to their ancestral lands. With this, no ancestral lands shall be opened for mining operations without prior consent of ICCs. A royalty payment shall be made upon utilization of minerals in ICC areas; such royalty will form part of the trust fund for the socio-economic well-being of ICCs.

Areas open to mining operations are made through Mining Production Sharing Agreements (MPSA) or Financial or Technical Assistance Agreement applications. To protect the national interest, benefits from mining are shared with the government through the MPSA. The Financial or Technical Assistance Agreement, however, allows 100 per cent foreign ownership of mining projects and provides several incentives to encourage mining. Areas closed to mining operations include the military and other government reservations, areas covered by small-scale miners, and areas expressly prohibited under the NIPAS. Quarry resources and permits are also included in the law.

The law also stipulates preferential employment to Filipinos in all types of mining employment. Employment of foreign nationals is limited to a maximum of five years, or the payback period as indicated in the original project study, whichever is longer, with specific requirements stipulated in the law.

Safety provisions include prohibitions against children 16 years of age or younger to be employed in any phase of mining operations and 18 years of age or younger to be employed underground in a mine. Additionally, the provisions mandate mine inspections and the reporting of accidents, among other measures. Environmental protection and enhancement programme shall be included in the mineral agreement

or permit, such as rehabilitation, regeneration, revegetation, and reforestation of mineralized areas, watershed development and water conservation, among others. A mine rehabilitation fund shall be created and deposited as a trust fund in a government depository bank to rehabilitate areas and communities affected by mining activities and rehabilitation research. The ECC is also required based on the EIA and procedures. People and non-governmental organizations shall be allowed and encouraged to participate to ensure that the contractors/permittees observe the requirements for environmental protection.

Provisions are also in place for the settlement of conflicts. In such cases, a panel of arbitrators at the DENR regional office would be established. Decisions or orders of the panel or arbitrators may be appealed to the Mines Adjudication Board, composed of the Secretary of DENR, the Director of the Mines and Geosciences Bureau, and the Undersecretary for Operations of DENR. The aggrieved party may file petitions for review by certiorari and question of law in Court.

A semi-annual fee known as the Mine Wastes and Tailings Fee is imposed on all operating mining companies. Such fees are to be used exclusively for payment for damages to lives and personal safety; lands, crops and forest products; marine life and aquatic resources; cultural resources; infrastructure, and the revegetation and rehabilitation of silted farmlands and other areas devoted to agriculture and fishing caused by mining pollution. There are also provisions for incentives in the law.

The law mandates a national and regional filing and recording system and a mineral resource database system to be set up in the Bureau. Periodic review of existing mineral reservations is also stipulated in the law to determine if their existence is still consistent with national interest.

### **Republic Act No. 8371 (Indigenous Peoples' Rights Act of 1997)**

Under the Indigenous Peoples' Rights Act of 1997, the ancestral domain is defined as "all areas generally belonging to Indigenous Cultural Communities

(ICCs)/Indigenous Peoples (IPs) comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare."<sup>52</sup> It also covers lands, bodies of water, minerals, and other natural resources, which may no longer be exclusively occupied by ICCs/IPs but conventionally have access to their subsistence and traditional activities. It also defines ancestral lands as those occupied, possessed, and utilised by individuals, families and clans who are members of ICCs/IPs. Provisions were laid out on the rights of ICCs/IPs over their lands through the issuance of the CADT and CALT.

ICCs/IPs shall have priority rights in harvesting, extracting, developing or exploiting natural resources within the ancestral domains. A non-member of ICCs/IPs concerned may be allowed to participate in the development and utilisation of the natural resources for a period of 25 years, renewable for another 25 years, provided there is a formal and written agreement with ICCs/IPs concerned or the community consents to such operation. The NCIP may exercise powers to safeguard the rights of ICCs/IPs under the contract. Ancestral domains necessary for watersheds, mangroves, wildlife sanctuaries, wilderness, protected areas, forest cover or reforestation shall be maintained, managed, and developed by ICCs/IPs, with the assistance of government agencies.

In recognition of the CEDAW, ICC/IP women shall enjoy equal rights and opportunities with men in the social, economic, political, and cultural spheres of life, as well as participation in the decision-making process at all levels affecting the development of society.

Under Section 17, ICCs/IPs have the right to determine and decide their development priorities, including the lands they own, occupy or use. They shall formulate, implement, and evaluate policies, plans, and programmes that directly affect them.

Under Section 22, the ICC/IP have the right to special protection and security during armed conflict, in accordance with the Fourth Geneva Convention of 1949. More importantly, IPs are not forced to abandon their lands, territories and means of subsistence or be relocated for military purposes under discriminatory conditions.

While the Indigenous Peoples' Rights Act does not contain any discriminatory provision and includes women-specific provisions, Chapter VIII, Section 53, of the law assumes that the head of the family or clan is male, particularly in the filing of ancestral lands that are not within ancestral domains.

### Republic Act No. 8435 (Agriculture and Fisheries Modernization Act of 1997)

The Agriculture and Fisheries Modernization Act of 1997 ensures the development of the agriculture and fisheries sectors following the principles of poverty alleviation and social equity, food security, rational use of resources, global competitiveness, sustainable development, people empowerment and protection from unfair competition.

The law has several provisions such as enabling access to credit to small farmers, fisherfolk, particularly women involved in the production, processing and trading of agriculture and fisheries products, and small- and medium-scale enterprises engaged in agriculture and fisheries; as well as providing timely, accurate and responsive business information, efficient trading services, and assistance in marketing. The Department of Agriculture, in collaboration with other government agencies, is tasked to plan and implement special training projects for women. Women, among other marginalized groups, are also included in the areas of concern to be considered when formulating the Agriculture and Fisheries Modernization Plan.

### Republic Act No. 11573 (Amendment to The Public Land Act and Presidential Decree No. 1529)

The Republic Act No. 11573 amends The Public Land Act and Presidential Decree No. 1529 (Property Registration Decree). It aims to simplify, update, and harmonize land laws and provide land tenure security by continuing judicial and administrative titling processes.

One of the critical amendments to The Public Land Act is lowering the coverage from 24 to 12 hectares and shortening the period of possession before the filing of an application for free patent from 30 to 20 years.

Under the law, applications for free agricultural patents shall be filed with the Community Environment and Natural Resources Office or the Provincial Environment and Natural Resources Office of the DENR. Processing of applications shall be completed within 120 days. It should be noted that the filing and acceptance of agricultural free patent applications in these two offices ended in December 2020 under Republic Act No. 9176 (Public Land Act of 2002), which extended the period of filing for applications for free patents and judicial confirmation of imperfect and incomplete titles to alienable and disposable lands of public domain. However, with the Property Registration Decree, free agricultural patents applications were resumed with simplified processing. For judicial confirmation of imperfect titles under the Property Registration Decree, a signed certification by a duly designated DENR geodetic engineer that the land is part of alienable and disposable agricultural lands of public domain is sufficient proof. Such a certificate shall be imprinted in the approved survey plan to be submitted in court. Earlier provisions concerning who may be entitled to free patent and those who may apply for land registration have also been amended to reflect the use of inclusive language.

### Republic Act No. 7076 (People's Small-scale Mining Act of 1991)

The People's Small-scale Mining Act of 1991 was formulated to generate employment opportunities and provide an equitable sharing of the nation's wealth

and natural resources through small-scale mining. The People's Small-scale Mining Program shall include the identification, segregation and reservation of certain mineral lands as people's small-scale mining areas; recognition of prior existing rights; encouragement of the formation of cooperatives; extension of technical and financial assistance and other social services; assistance in processing and marketing; ancillary livelihood activities; and regulation and efficient collection of government revenue.

No ancestral land may be declared a small-scale mining area without prior consent of cultural communities; however, if such lands are declared for such purpose, members of the cultural communities will be given priority in awarding mining contracts.

Individuals undertaking small-scale mining activities shall register as miners with the Board. They may organize themselves into cooperatives to qualify for a people's small-scale mining contract award. Contract area shall not exceed 20 hectares per contractor, among other requirements. Small-scale mining contracts shall not be subcontracted, assigned or transferred.

A People's Small-Scale Mining Protection Fund is created under the law, which shall be 15 per cent of the national government's share to be used for information dissemination and training of small-scale miners on safety, health and environmental protection. It also supports the establishment of mine rescue and recovery teams including procurement of rescue equipment and addresses the needs of miners brought about by accidents.

Additionally, the law establishes regulatory boards at the provincial and city levels to declare and segregate existing goldrush areas for small-scale mining, reserve future gold and other mining areas for small-scale mining, award contracts to small-scale miners, formulate and implement rules and regulations related to small-scale mining, and settle disputes, among others.

This programme is to be implemented by the DENR in coordination with other government agencies.

## Republic Act No. 11054 (Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao)

The Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao resulted from decades of political negotiations with the secessionist group, Moro Islamic Liberation Front, to create a new political entity called the Bangsamoro. Bangsamoro is a territory and identity of populations considered natives or original inhabitants of Mindanao, the Sulu archipelago, and its adjacent islands. It comprises a predominantly Muslim population and recognizes non-Muslim ICCs and Christian settlers. Its territory covers the provinces of Lanao del Sur, Maguindanao, Basilan, Sulu and Tawi-Tawi, Islamic City of Marawi and Cotabato City, including the 63 *barangays* of North Cotabato.

Part of its powers is exercising authority on agriculture, livestock and food security, ancestral domain and natural resources, cadastral land survey, classification of public lands, DRRM, ecological solid waste management and pollution control, environment, parks, forest management, wildlife, nature reserves conservation, fishery marine and aquatic resources, urban land reform and land use, water supply and services, flood control and irrigation systems, among others.

The law also recognizes the role of women and their full and direct participation in governance and development. It follows the provisions under The Magna Carta of Women calling for the setting aside of resources for gender and development programmes, projects, and activities. It also underscores the rights of IPs to the FPIC regarding development initiatives and exploration, development, and utilization of natural resources within their ancestral domains.

Given these powers, the Bangsamoro recognizes the need to enact laws providing for adequate reparation to the Bangsamoro people affected by unjust dispossession of territorial and proprietary rights and customary land tenure, considering the report of the Transitional Justice and Reconciliation Commission as commissioned under the Comprehensive Agreement on the Bangsamoro.

## Recommendations

For land and natural resources laws, below are some recommendations for consideration:

- Fast-track the formulation of the implementing rules and regulations for Republic Act No. 9999 (Free Legal Assistance Act of 2010). Include provisions that would ensure non-discrimination and affirmative actions for women and other marginalized individuals, such as IP, rural and urban poor, among others, to have access to justice, consistent with the CEDAW Committee's General Recommendation No. 33 on women's access to justice (GR 33) and GR 37.
- Enact legislation to secure the FPIC of women not only for projects affecting ICCs but also for those affecting women, including in the areas of agriculture, fisheries, forestry, and extractive industries, consistent with the Human Rights Council Expert Mechanism Advice No. 11 (2018) on IPs and FPIC.<sup>53</sup> Ensure through law and regulations that the FPIC especially of women is secured across project development processes, not just in the formulation or design phase. This includes documentation, monitoring, and evaluation across all processes. Guarantee that agreements among affected communities contain provisions for grievance and redress, as well as on royalties and benefit-sharing schemes. Establish quotas for women in community consultations in line with the FPIC processes.

### 4.4 Participation and Leadership

Under CEDAW, Article 7, States Parties shall take all appropriate measures to ensure equal rights of women to participate in the formulation of government policy and its implementation, hold public office, and join non-governmental organizations. Article 11, Section 2 provides that States Parties encourage the provision of necessary supporting social services to enable parents to combine domestic and productive work and participation in public life. In Article 14, Section 14, States Parties shall take appropriate measures to ensure that rural women participate in development planning at all levels, organize self-help groups and cooperatives to obtain equal access to economic

opportunities, and participate in community activities, among others.

Under CEDAW GR 37, States Parties are recommended to adopt policies on temporary special measures to achieve the participation of women in all decisions and development planning related to disaster risk reduction and climate change; develop programmes to ensure the involvement and leadership of women in political life in the context of local and community planning and climate change and disaster preparedness, response and recovery; ensure equal representation of women in forums and mechanisms on disaster risk reduction and climate change at the community, local, national, regional and international levels towards development of policies, legislation and plans; and allocate adequate resources to build the leadership capacities of women and creating an enabling environment for strengthening their role in disaster risk reduction and climate change mitigation at all levels. There are also specific provisions to ensure positive measures for girls, young women, Indigenous women, and other marginalized groups to participate in disaster risk reduction and climate change mechanisms.

Furthermore, CEDAW GR 39 recommends that States Parties establish accountability mechanisms to prevent political parties from discriminating against Indigenous women and girls as well as give adequate access to gender-responsive judicial remedies to report violations; train public servants on the right of Indigenous women and girls to effectively participate in public life; and disseminate accessible information on opportunities to exercise their right to participate in public life among Indigenous women and girls, including the use of sign language and Braille. Aside from these, the CEDAW Committee's General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (GR 30), emphasizes the rights of Indigenous women and girls to participate as decision-makers and actors in peacebuilding efforts and transitional justice processes.

Several Philippine laws pay specific attention to women's participation. For example, the Local Government Code of 1991 calls for one sectoral representative from women, among other marginalized sectors; however, an enabling law is still needed. Several bills were filed in both Congress and Senate,

calling for the manner and date of the election of sectoral representatives to the local legislature, but these have yet to gain traction. Despite the Party-List System Act guaranteeing opportunities for marginalized and underrepresented sectors, such as workers, farmers, urban poor, IPs, youth, women, among others, to participate in the national legislative process, the system has been marred by various issues. For one, the party-list serves as the alternative for members of political dynasties. Based on the report made by the Philippine Center for Investigative Journalism, at least 70 of the 177 party-list groups accredited by the Commission on Elections in the May 2022 elections are connected to political clans or incumbent local or national elected officials. Some were also former elected officials whose terms have ended or are family members of incumbent or former elected officials. Some are also connected with the military and the police.<sup>54</sup> The Supreme Court in its 2001 ruling stated that only those from the marginalized and underrepresented sectors could participate in the system but this was reversed in 2013, deciding that organizations “do not need to organize along sectoral lines and do not need to represent ‘any marginalized and underrepresented’ sector.”<sup>55</sup>

While the Indigenous Peoples’ Rights Act of 1997 mandated the participation of ICCs or IPs in policy-making and other legislative bodies, not all local governments with ICCs/IPs can install their Indigenous Peoples Mandatory Representation (IPMR) in the local legislature. As of 2019, there are currently 4,294 IPMRs in the country; sex-disaggregated information on IPMRs is needed. Based on the results of an independent reporting mechanism for Open Government Partnership (2023),<sup>56</sup> the main reason for this delay in fulfilling commitments stipulated by the law is that some local government officials are not accepting the selected representatives of ICCs/IPs as IPMRs.

Under Republic Act No. 8425 (Social Reform and Poverty Alleviation Act), each of the 14 basic sectors comprising the National Anti-Poverty Commission shall have three nominees; however, the President shall appoint the sectoral representative.

Republic Act No. 9520 (Philippine Cooperative Code of 2008) has no discriminatory provisions against

women becoming members and heads of cooperatives. However, although women outnumber men in the number of members among registered cooperatives, there are more men than women in board membership. In a report made by the Cooperative Development Authority in December 2015, there was a total of 10,425 cooperatives in the country; female members were 4,139,001 or 54 per cent while male members totalled 3,515,315 or 46 per cent. Female Board members were 21,336 or 40 per cent while male Board members were 32,111 or 60 per cent.

Republic Act No. 6972 (*Barangay-Level Total Development and Protection of Children Act*) calls for creating daycare centres at the *barangay* level. It appears, especially in its application, to solely focus on children’s protection and welfare. Its implementation then is often seen as missing an opportunity to reach out and empower women (or parents) to organize and participate in *barangay*-level policy and planning processes, especially in the context of disaster and climate change. For example, day care centres can be hubs for information and capacity-building on disaster preparedness.

The reviewed laws under this section on participation and leadership do not adequately address the provision of social support services to enable women to fully participate in public life.

### Republic Act No. 7160 (Local Government Code of 1991)

The Local Government Code of 1991 was intended to enable territorial and political subdivisions to enjoy local autonomy through decentralization. It reiterated the policy of the State to conduct periodic consultations with local governments and civil society organizations and introduced consultations with members of the community before any project or programme implementation takes place.

Title II, Chapter 1, Section 41 mandates the inclusion of sectoral representatives in the local legislature. This provision specifies the appointment of representatives from three key sectors: women, workers, and one from a selection including urban poor, the ICCs, PWD and other sectors as may be determined by the *sanggunian*

(local legislature). The sectoral representatives form part of the local legislature alongside its elected members. Local legislature includes, but shall not be limited to, standing committees: women and family, human rights, youth and sports development, environmental protection, and cooperatives.

Local boards such as school boards, health boards, development councils, and peace and order councils that formulate policies, plans and programmes on matters of their jurisdiction may involve members from civil society. In mandatory local positions, people's participation is required, as in the case of planning and development coordinators and population officers.

Leagues (*barangay*, municipal, city) composed of elected officials are also called to assist in the education of residents towards people's participation in country-wide development goals.

While there are no discriminatory provisions in the Local Government Code of 1991 regarding women's representation and participation at the local government level, Section 521 of the law calls for a mandatory review every five years to provide a more responsive and accountable local government structure.

### Republic Act No. 7941 (Party-List System Act)

The Party-List System Act allows marginalized and underrepresented sectors to participate in the national legislative process. The Party-List System Act calls for the registration of national, regional or sectoral parties, organizations or coalitions that represent women, youth, and ICCs, among others. Party-list is composed of at least 20 per cent of the total members of the House of Representatives.

Party-list shall be ranked from the highest to the lowest based on the number of votes received during the elections. Parties that receive at least two per cent of total votes for the party-list system shall be entitled to one seat; those garnering more than two per cent shall be entitled to additional seats provided that each party shall have at most three seats.

Each party shall nominate at least five candidates if it obtains the required number of votes, ranked according

to the party's nomination. Minimum qualifications for nominees have been set by the law, such as being a natural-born citizen, at least 25 years old (except for youth representatives), a registered voter, resident of the Philippines for at least one year prior to the elections, literate and a bona fide member of the representing party for at least 90 days before the elections.

### Republic Act No. 8371 (Indigenous Peoples' Rights Act of 1997)

The Indigenous Peoples' Rights Act of 1997 aims to cover not only the rights of ICCs and IPs in the ancestral domain but also guarantees their human rights, elimination of discrimination, respect for their political structures and governance, delivery of essential services to their peoples and the creation of an office that addresses ICCs/IPs needs.

Under the Indigenous Peoples' Rights Act, Chapter V, Section 21 guarantees the equal protection and non-discrimination of ICCs/IPs, including women, in light of the CEDAW. Section 23, on the other hand, guarantees freedom from discrimination and the right to equal opportunity, which also includes equal treatment in employment for women and men, and protection from sexual harassment. Section 25 stipulates affirmative action for women, among other marginalized sectors, in delivering essential services. Finally, Section 26 is the specific section on the enjoyment of women's rights and opportunities, as well as the participation of women in producing and enjoying the fruits of development.

Chapter IV of the law calls for ICCs/IPs rights to self-governance, empowerment, and participation in decision-making, including mandatory representation in policy-making and other legislative bodies. Local governments with numerous ICCs/IPs must have IPMR in the local legislature. However, compliance is still challenging, particularly in ensuring women's representation. Furthermore, the IPMR are prone to politicization, with resistance from the local government in enabling seats for them in the local legislature. Among ICCs/IPs, some representatives were not selected by the community.<sup>57</sup> Chapter IV,

Section 15 recognizes the right of ICCs/IPs to use their own commonly accepted justice systems, conflict resolution institutions, peace-building processes or mechanisms, and other customary laws and practices as may be compatible with the national legal system and universally recognized human rights.

Chapter VII, Section 40, concerning the NCIP composition, stipulates that two of the seven commissioners shall be women. In contrast, Section 50 stipulates the representation of women in the consultative body that the Commission may constitute on the problems, aspirations, and interests of ICCs/IPs.

### Republic Act No. 8425 (Social Reform and Poverty Alleviation Act)

The Social Reform and Poverty Alleviation Act calls for a more grassroots approach to poverty alleviation by pursuing area-based, sectoral, and focused interventions with the poor and marginalized. It also underscores a gender-responsive approach to fighting poverty.

This law calls for the creation of the National Anti-Poverty Commission, which serves as the coordinating and advisory body for implementing the Social Reform and Poverty Alleviation Act. Under Section 6, the National Anti-Poverty Commission is composed of government agencies, leagues of local governments and representatives from the 14 basic sectors, such as farmers and landless rural workers, artisanal fisherfolk, urban poor, IPs and ICCs, workers in formal labour and migrant workers, workers in the informal sector, women, children, youth and students, senior citizens, PWD, victims of disasters and calamities, non-governmental organizations and cooperatives.

### Republic Act No. 9520 (Philippine Cooperative Code of 2008)

The Philippine Cooperative Code of 2008 aims to create cooperatives as a practical vehicle for self-reliance toward economic development and social justice. Cooperatives are associations registered with the Cooperative Development Authority. Their primary objective is to provide services to their members and

facilitate the achievement of increased income, savings, investments and productivity. The cooperatives promote equitable distribution of net surplus; provide optimum social and economic benefits to members; educate them on efficient business practices and innovative management techniques; empower those with lower income and less privilege to increase their ownership in the wealth of the nation; and cooperate with the government, other cooperatives and people-oriented organizations. The cooperative principles outlined in the law include voluntary and open membership to all individuals able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, cultural, political, or religious discrimination.

Registered cooperatives grant preferential rights in the management of public markets and lease facilities, stalls or spaces to farm and fishery producers, suppliers, market vendors, and federations primarily engaged in the production and marketing of agricultural, fishery, and small entrepreneurial products. Additionally, the law includes a provision on agrarian reform cooperatives, intended to develop an appropriate land tenure system that addresses land development, consolidation or management in areas covered by agrarian reform.

### Recommendations

For participation and leadership laws, below are some recommendations for consideration:

- Enact legislation on local sectoral representation under the Local Government Code of 1991, ensuring equitable representation of women and other marginalized groups such as IPs, rural women, and youth, among others, especially those coming from disaster-prone and geographically isolated and disadvantaged areas (GIDA) in local legislature.
- Revisit the Party-List System Act and the 2001 Supreme Court decision that upholds the representation of marginalized and underrepresented sectors, such as women, IPs, rural women, and youth, among others, in the national legislature under the party-list system.



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- Enhance implementing rules and regulations of Republic Act No. 10121 (Philippine Disaster Risk Reduction and Management Act of 2010) to secure one seat for women’s organizations in Local Disaster Risk Reduction and Management Councils (LDRRMC), in addition to the representation of gender and development focal points.
- Revisit Republic Act No. 6972 (*Barangay-Level Total Development and Protection of Children Act*) to expand its focus beyond children’s protection and welfare. The law should empower women to participate in *barangay*-level policy and planning processes, especially in the context of disaster and climate change.

## 4.5 Climate and Environment

While the CEDAW itself does not make specific reference to climate and the environment, the CEDAW Committee has provided guidance on the application of the Convention’s principles and provisions in the

context of climate change in GR 37. The Committee emphasizes that State Parties should ensure that all policies, legislation, plans, programmes, budgets, and other activities relating to disaster risk reduction and climate change are gender responsive and grounded in the cross-cutting principles of equality and non-discrimination, participation and empowerment, and accountability and access to justice.

Notably, States have obligations under article 2 of CEDAW to “take targeted and specific measures to guarantee equality between women and men, including the adoption of participatory and gender-responsive policies, strategies and programmes relating to disaster risk reduction and climate change, across all sectors”.<sup>58</sup> The Committee also recognizes the intersecting forms of discrimination faced by marginalized groups of women and girls, including those from Indigenous, racial, ethnic and sexual minority groups, women and girls with disabilities, adolescents, older women, unmarried women, women heads of household,

widows, women and girls living in poverty in both rural and urban settings, women in commercial sex work, internally displaced persons (IDP), stateless refugees, and asylum-seeking and migrant women. Accordingly, GR 37 provides that States should undertake specific measures to ensure all women and girls' participation.

Further to this, the General Recommendation emphasizes that States parties should provide equal opportunities for women and girls, including those from Indigenous and other marginalized groups, to lead, participate and engage in decision-making activities relating to climate change. Ensuring accountability and access to justice, including providing appropriate and accurate information and mechanisms to ensure that all women and girls whose rights have been directly and indirectly affected by disasters and climate change are provided with adequate and timely remedies, is also a core part of the CEDAW GR 37.

There are missed opportunities for gender considerations in several climate and environmental laws. For example, micro-, small- and medium-enterprises are only encouraged to do Extended Producer Responsibility (EPR) under Republic Act No. 11898 or the Extended Producer Responsibility Act. This is a missed opportunity considering that 99.5 per cent of all registered businesses in the Philippines are micro-, small- and medium-enterprises and 63 per cent of micro-enterprises are women-owned or led.<sup>59</sup> Republic Act No. 11494 (Bayanihan to Recover As One Act) allocated resources for accessible sidewalks and protected bike lanes, among others. Still, it has not considered women's mobility choices alongside their safety and security concerns. During the pandemic, in a survey by the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), about one out of five women thought that sexual harassment in public spaces worsened.<sup>60</sup> Further, in the same law, resources for gender and development could be realigned to respond to coronavirus disease (COVID-19), reflecting the lack of appreciation among lawmakers of the intersectionality of gender concerns with a global health issue.

Republic Act No. 10174 (The People's Survival Fund Act) guarantees the participation of vulnerable and marginalized groups in identifying, monitoring, and

evaluating adaptation projects to be supported by the fund.<sup>61</sup> However, it is faced with several challenges. For one, there is a lack of awareness of the People's Survival Fund (PSF) among local governments. Additionally, some local governments cannot comply with requirements for submitting an adaptation project proposal to the CCC, which necessitates the provision of Comprehensive Land Use Plan and Comprehensive Development Plan. Many local governments lack a dedicated institutional coordinating body for climate action, similar to the CCC or DRRM, nor do they have the capacity to perform climate change adaptation actions locally. Since its passage, there has been low approval rate for projects under the PSF.<sup>62</sup> Furthermore, there are insufficient measures to ensure the representation of women and other marginalized groups. Advocating for local solutions would particularly benefit women who often have limited participation due to, among others, geographical distance, and time poverty.

Several laws indicate penalties for violations such as Republic Act No. 8749 (Philippine Clean Air Act of 1999), Republic Act No. 9003 (Ecological Solid Waste Management Act of 2000), Republic Act No. 9275 (Philippine Clean Water Act of 2004), Republic Act No. 11285 (Energy Efficiency and Conservation Act) and Republic Act No. 11898 (Extended Producer Responsibility Act of 2022). However, these laws fail to address accountability for the lack of participation of women and marginalized individuals or groups in policy and programme development, planning and implementation processes, as well as for non-compliance with gender equality standards.

The Local Government Code of 1991 requires the establishment of local standing committees, including on women, family, and human rights, as well as requires consultations by national agencies and government-owned and -controlled corporations with local government units, non-government organizations and other sectors. However, effectively addressing the gendered dimensions of climate change necessitates that standing committees are not siloed but rather take an intersectoral approach, particularly focusing on appropriations, women and family, human rights, youth, environmental protection and cooperatives.

Republic Act No. 10771 (Philippine Green Jobs Act of 2016) seeks to identify skills gaps, develop training programmes and adequately train and certify workers for jobs for the benefit of the environment, as well as incentivize business enterprises to support green jobs through tax deductions. This law can go a step further to require women's participation as a key standard for green jobs and provide incentives for businesses that employ a certain percentage of women in such roles.

### Republic Act No. 7156 (Mini-hydroelectric Power Incentive Act)

The Mini-hydroelectric Power Incentive Act aims to encourage entrepreneurs to develop sites for mini-hydroelectric power by granting incentives and privileges, and to provide a portion of taxes and other economic benefits from tapping hydroelectric power potential to localities where they are established. It also vests exclusive authority and responsibility to the Office of Energy Affairs on regulating, promoting, and administering mini-hydroelectric power development and implementation.

A mini-hydroelectric power plant utilizes falling or running water (run-of-river hydro plants) to turn a turbine generator, producing electricity. It has an installed capacity ranging from 101 to 10,000 kilowatts.

Tax incentives for mini-hydroelectric power developers include special privilege tax rates, tax and duty-free importation of machinery, equipment, and materials, tax credit on domestic capital equipment, special realty tax on equipment and machinery, valued-added tax exemption, and income tax holiday. Despite these benefits, mini-hydroelectric technology development faces challenges, such as high upfront costs and the need for government intervention and subsidy; decrease in capacity vis-à-vis large hydropower projects; intermittent supply of power; considerable decrease in power generation during the dry season; and dependence on imports and high cost of equipment for micro-hydro projects.

If the mini-hydroelectric power development is in the city, 60 per cent of special privilege taxes collected shall accrue to the city; 40 per cent, to the national government. If it is in a municipality, 30 per cent shall accrue to the municipality, 30 per cent to the province and 40 per cent to the national government.

The contract term for developers shall be for 25 years, extendable for another 25 years, provided that all terms and conditions of the award are complied with.

### Republic Act No. 7160 (Local Government Code of 1991)

The local legislature shall have standing committees, which include the committee on appropriations, women and family, human rights, youth and sports development, environmental protection, and cooperatives.

Under the Local Government Code of 1991, it is stipulated that it shall be the duty of every national agency or government-owned or -controlled corporation involved in the planning and implementation of any project or programme that may cause pollution, climate change, depletion of non-renewable resources, loss of cropland, rangeland or forest cover and extinction of animal or plant species to consult with local government units and non-government organizations and other sectors. The goals and impact of such a project or programme should be explained to the people and the community, as well as the measures to prevent or minimize environmental or ecological impact.

In addition to its internal revenue allotment, a local government unit shall have a share of 40 per cent of the gross collection derived by the national government from the preceding fiscal year from mining taxes, forestry and fishery charges, as well as other taxes, fees or charges from its share in any co-production, joint venture, or production sharing agreement in the utilization and development of national wealth within their jurisdiction.

Among the essential services to be provided by the municipal government are extension and on-site research services and facilities related to agriculture and fisheries, including water and soil resource utilization and conservation projects, and enforcement of fishery laws in municipal waters, including the conservation of mangroves.

Solid waste disposal or environmental management system and services or facilities related to general hygiene and sanitation are also included. Provincial governments are mandated to enforce laws such as forestry laws, which are limited to community-based forest projects, pollution control laws, small-scale mining laws, and other laws for the protection of the environment and installation of mini-hydroelectric projects for local purposes. Local governments may impose appropriate penalties for acts that endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging, smuggling of natural resources products and endangered species of flora and fauna, slash-and-burn farming, and other activities resulting in pollution or ecological imbalance. Provinces must also approve ordinances, measures, and safeguards against pollution to preserve the natural ecosystem, aligned with approved human settlements and environmental sanitation standards.

Local governments and non-governmental organizations are encouraged to help people with their economic, social, environmental, or cultural projects.

Provincial/city/municipal environment and natural resources officers are optional posts at the local level.

### **Republic Act No. 8749 (Philippine Clean Air Act of 1999)**

The Philippine Clean Air Act of 1999 aims to develop a national programme on air pollution management, focusing on pollution prevention rather than control. The Philippine Clean Air Act of 1999 encourages cooperation and self-regulation among citizens and industries, as well as promotes public information and education. More importantly, the law aims to formulate and enforce a system of accountability, and set up funding or guarantee mechanisms for clean-up, environmental rehabilitation, and compensation.

Under this law, the air quality management system is developed, composed of an air quality monitoring and information network, an integrated air quality improvement framework, an air quality action plan, airsheds, management of nonattainment areas, air quality control techniques, ambient air quality guideline values and standards, emission charge system, an air quality management fund, and an air pollution research and development programme.

A governing board is established for the designated airsheds led by the DENR and comprising provincial governments, city/municipal mayors, representatives from government agencies, representatives from people's organizations, non-governmental organizations, and the private sector. The board aims to formulate policies and a common action plan, coordination among members, and submission and publication of an annual air quality status for each airshed.

For the management of non-attainment areas,<sup>63</sup> local governments shall prepare and implement a programme and other measures, including relocation, to protect the health and welfare of residents in the area whenever necessary. Information on air quality control standards and techniques shall be made available to the public.

The DENR is establishing an air quality management fund as a particular account in the National Treasury to finance containment, removal, and clean-up operations of the government in air pollution cases; guarantee restoration of ecosystems and rehabilitation of areas affected by violators; support research, enforcement and monitoring activities and capabilities of the relevant agencies; and provide technical assistance to agencies. The fund will be sourced from the fines imposed and damages awarded to the government by the Pollution Adjudication Board, proceeds of licenses and permits issued, emission fees, as well as contributions from donations, endowments, and grants. Additionally, the law stipulates permits, emission quotas, and financial liability for environmental rehabilitation.

## Republic Act No. 9003 (Ecological Solid Waste Management Act of 2000), amended by Republic Act No. 11898 (Extended Producer Responsibility Act of 2022)

The Extended Producer Responsibility Act of 2022 was intended to set guidelines and targets for solid waste avoidance and volume reduction; ensure the proper segregation, collection, transport, storage, treatment, and disposal of solid waste; promote national research and development programmes for improved solid waste management and resource conservation techniques, more effective institutional arrangement, and indigenous and improved methods of waste reduction, collection, separation, and recovery; as well as more significant private sector and public participation in solid waste management, among others.

The law covers various provisions related to segregation, collection, transport of wastes, recycling, composting, waste management facilities, local solid waste management, incentives, financing solid waste management, and penalties.

Under this law, a National Solid Waste Management Commission is being established, composed of 14 government agencies and a representative from non-governmental organizations working on recycling and the protection of air and water quality, the recycling industry, manufacturing, or packaging industry. This commission is tasked to formulate the national solid waste management framework, among other functions. At the local level, the commission is replicated in the form of a solid waste management board and tasked to develop its respective solid waste management plans. Local governments are generally responsible for implementing and enforcing this law under the Local Government Code of 1991. Under the commission, a National Ecology Center shall be established to provide consultancy, information, training, and networking services. This centre is to maintain a multi-sectoral, multi-disciplinary pool of experts from the academia, inventors, professionals, business, industry, youth, and women, among others.

## Republic Act No. 9275 (Philippine Clean Water Act of 2004)

The Philippine Clean Water Act aims to protect, preserve, and revive the quality of fresh, brackish, and marine waters.

Water management areas shall be governed by a board composed of representatives of mayors and governors of member local governments and representatives from relevant national government agencies, non-government organizations, the water utility sector, and the business sector. Each area shall also create a multi-sectoral group to conduct a water quality surveillance and monitoring network, submitting reports and recommendations to the governing board. Each management area shall also have a technical secretariat to support the governing board. Both the board and the technical secretariat do not specify the participation of women or other marginalized groups.

There is also a provision for the management of non-attainment areas which calls on local governments to prepare contingency plans and other measures, including relocation to protect the health and welfare of the residents within affected areas.

A national programme on sewerage and septage management is also called for in the law, which will be based on a listing of sewerage, septage, and combined sewerage-septage projects of local governments. Such a list also serves as the basis for building and rehabilitating facilities. The Department of Health, in coordination with other concerned agencies, is mandated to formulate guidelines and standards for the collection, treatment, and disposal of sewage, including procedures for establishing and operating a centralized sewage treatment system.

A national water quality management fund is being established as a special account in the National Treasury to finance containment and clean-up operations of the government in water pollution cases; guarantee restoration of ecosystems and rehabilitation of affected areas, research, monitoring, and technical assistance; and grant rewards and incentives, among others. Fines imposed and damages awarded vis-à-vis violations of the law will form part of the fund. An area water quality management fund is also set up in the water management areas.

Programme and project proponents shall set up an Environmental Guarantee Fund as part of the environment management plan included in the environmental compliance certificate. The fund shall finance the health of the ecosystem and the conservation of watersheds and aquifers, emergency response, clean-up, or rehabilitation of areas affected by the programme or project.

The DENR shall be the lead agency for implementing the law, with local governments sharing responsibility for managing and improving water quality within their jurisdictions. Several agencies are also indicated with specific functions under the law. Incentives, rewards, fines, and penalties are also stipulated in the law.

### Republic Act No. 9367 (Biofuels Act of 2006)

The Biofuels Act was adopted to reduce the country's dependence on imported fuels, mitigate toxic and GHG emissions, increase rural employment and income, and ensure the availability of renewable clean energy. According to this law, within six months of its entry into force in 2007, harmful gasoline additives or oxygenates shall be gradually phased out. Additionally, it calls for all liquid fuels for motors and engines sold in the country to contain locally sourced biofuels. It also includes incentive provisions to encourage investments in production, distribution, and utilization of locally produced biofuels.

A National Biofuels Board was established, comprised of the Department of Energy, Trade and Industry Secretaries, Science and Technology, Agriculture, Finance and Labor, and Employment, among others.

Furthermore, the law includes a provision on guaranteeing benefits for workers in biofuel industry.

In 2015, an amendment to the law was passed, Republic Act No. 10745, which amends Section 5.3 of the Biofuels Act of 2006, permitting natural gas power generating plants to use neat diesel as an alternative fuel in cases of natural gas supplies shortages.

### Republic Act No. 9512 (National Environmental Awareness and Education Act of 2008)

The National Environmental Awareness and Education Act of 2008 aims to integrate environmental education in curricula of all educational institutions, including private and public facilities, from *barangay* day care and preschool to non-formal, technical-vocational, professional, Indigenous learning, and out-of-school youth courses or programmes. Environmental education covers environmental concepts and principles, relevant laws, the state of the international and local environments, local environmental best practices, the threats posed by environmental degradation and its impact on human well-being, the responsibilities of the citizenry towards the environment, and the value of conservation, protection, and rehabilitation of natural resources and the environment in the context of sustainable development.

Environmental education and awareness programmes and activities will be included in the National Service Training Program as part of the Civic Welfare Training Service component for all baccalaureate degree and vocational courses with a curriculum duration of at least two years. Also covered are public education and awareness programmes on environmental protection and conservation through interagency and multi-sectoral efforts. The Department of Education, Commission on Higher Education and Technical Education and Skills Development Authority, in coordination with the DENR, shall undertake capacity-building programmes nationwide.

### Republic Act No. 9513 (Renewable Energy Act of 2008)

The Renewable Energy Act aims to hasten the exploration and development of renewable energy resources such as but not limited to biomass, solar, wind, hydro, geothermal, and ocean energy sources, including hybrid systems, with the ultimate goal to increase the utilization of these resources towards energy self-reliance and prevention or reduction of harmful emissions.

Under this law, the National Renewable Energy Board was created, which sets the minimum percentage generation from eligible renewable energy resources and determines the sectors subject to the Renewable Portfolio Standard on a per grid basis. The Energy Regulatory Commission, together with the National Renewable Energy Board, is mandated to formulate and implement the feed-in tariff system<sup>64</sup> rules for electricity produced from wind, solar, ocean, run-of-river hydropower, and biomass, with a minimum duration of 12 years. Additionally, the Renewable Energy Market shall be established, and the Philippine Electricity Market Corporation shall implement changes to the wholesale electricity spot market rules to include the rules specific to the Renewable Energy Market.

A green energy option programme is also established to allow end-users to opt for renewable energy resources. 80 per cent of the royalty and government share from renewable energy host communities/local government units, derived from renewable energy projects and activities, shall be allocated directly to subsidize the electricity consumption of end-users whose monthly consumption does not exceed 100 kilowatts per hour. These subsidies may take the form of rebates and refunds, among others.

On the other hand, the law provides various incentives for developers of renewable energy projects, including hybrid systems, as well as manufacturers, fabricators, and suppliers of locally produced renewable energy equipment and components. Power and electricity generated through the renewable energy system for the generator's consumption and distribution in off-grid areas are exempt from universal charge. Farmers engaged in the plantation of crops and trees used as biomass resources are entitled to duty-free importation and exemptions from Value-added Tax (VAT) on all agricultural inputs, equipment, and machinery. Tax rebates are also given for purchasing renewable energy equipment for residential, industrial or community use. Government financial institutions shall provide preferential financial packages for the development, utilization, and commercialization of renewable energy projects. Under the law, the National Renewable Energy Board, in coordination with the Department of Energy, shall submit a report to the Joint Congressional Power Commission about renewable energy

development, utilization, and impact as the basis for reviewing incentives certified by the Department of Energy.

The government's share from existing and new renewable energy development projects shall amount to one per cent of the gross income of resource developers resulting from the sale of renewable energy produced. Other income incidental or arising from renewable energy generation, transmission, and sale of electric power, except for geothermal energy, shall be set at 1.5 per cent of gross income. A renewable energy trust fund shall be established to enhance the development and utilization of renewable energy.

All renewable energy exploration, development, utilization, and energy systems operation shall comply with existing environmental regulations. Developers shall secure the ECC from the regional office of the DENR. Renewable energy developers, local manufacturers, fabricators, and suppliers of locally produced renewable energy equipment shall be registered and certified by the Department of Energy.

The Department of Energy is the lead agency mandated to implement this law. The Renewable Energy Management Bureau is being established under the said department, dissolving the Energy Utilization Management Bureau.

### Republic Act No. 9729 (Climate Change Act of 2009)

In alignments with the State's commitment to the UNFCCC and the Hyogo Framework for Action, the Climate Change Act of 2009 was adopted. It recognizes the vulnerability of people experiencing poverty, women, and children to climate change. The law reinstates State's policy to incorporate a gender-sensitive, pro-children, pro-poor perspective into all climate change and renewable energy initiatives, plans, and programmes. It also underscores gender mainstreaming as part of policy and programme design, implementation, monitoring, and evaluation.

Under this law, the CCC was created to serve as the policy-making body tasked to coordinate, monitor, and evaluate the government's programmes and action plans related to climate change. It is an independent

and autonomous body attached to the Office of the President. The commission is comprised of the chairperson and three commissioners, with an advisory board comprising various government agencies, including the chairperson of the National Commission on the Role of Filipino Women, now known as the PCW.

The law also includes the development of the Framework Strategy and Program on Climate Change, which is the basis for formulating National and Local Climate Change Action Plans. These action plans include an assessment of the impact of climate change, identification of the most vulnerable communities/ areas, the consideration of diverse impacts on men, women, and children, as well as the assessment and management of risks and vulnerabilities. They also involve the identification of GHG mitigation potentials and options, along with adaptation measures for joint projects of national and local governments.

The Department of the Interior and Local Government, as well as the Local Government Academy, are specifically tasked to develop and provide training for local governments on climate change, focusing on women and children in rural areas.

Funding allocation for climate change shall be derived from the annual appropriations of national and local governments. This allocation covers public awareness campaigns on the effects of climate change and energy-saving solutions, education and training programmes, and micro-credit schemes, especially for women in rural areas.

### **Republic Act No. 10174 (The Climate Change Act)**

The Republic Act No. 10174 is an amendment to the Climate Change Act of 2009, specifically focusing on operationalizing the funding allocation for climate change.

In this law, the CCC is additionally tasked to establish a coordination mechanism with concerned agencies and other stakeholders to ensure transparency and coherence in the administration of climate funds. It is also mandated to formulate a national strategic framework on climate change that serves as a basis for climate financing, among others, to protect vulnerable

and marginalized communities from the adverse effects of climate change. More importantly, a PSF is established under this law as a special fund to finance adaptation programmes and projects based on the national strategic framework.

A board is also created to provide overall strategic guidance in managing and using the fund to develop funding windows for various adaptation activities, including counterpart funding arrangements and guidelines for project assessment, approval, and evaluation. Aside from this, the board is also tasked to develop social, financial, and environmental safeguards for project evaluation. The board comprises various government agencies, including the PCW. The law also guarantees the participation of vulnerable and marginalized groups in identifying, monitoring and evaluating adaptation projects to be supported by the fund.

### **Republic Act No. 10771 (Philippine Green Jobs Act of 2016)**

The Philippine Green Jobs Act of 2016 aims to identify the needed skills, develop training programmes, and build the capacities of workers for jobs that produce goods and services for the benefit of the environment, conserve natural resources, enable the country's sustainable development and facilitate the transition to a green economy.

It provides incentives to business enterprises supporting green jobs, such as special deduction from taxable income equivalent to 50 per cent of total expenses for skills training and research development, and tax- and duty-free importation of capital equipment exclusively dedicated to promoting green jobs. Various government agencies have been mandated with different roles for the implementation of the law, such as the Department of Labor and Employment, Department of Finance, DENR, Department of Education, Commission on Higher Education, Technical Education and Skills Development Authority, National Economic and Development Authority, Department of Trade and Industry, Professional Regulation Commission, Department of Transportation and Communications, Department of

Tourism, Department of Public Works and Highways and government financial institutions. In consultation with various agencies, the CCC is responsible for developing and administering standards for evaluating and certifying green goods, services, technologies, and practices to regulate the availability of incentives and ensure green jobs content under the National Green Jobs Human Resource Development Plan. Under this law, the Department of Labor and Employment is being included as a new member of the CCC. At the same time, the National Tripartite Industrial Peace Council is mandated to serve as the oversight committee to verify and monitor the law's implementation.

### Republic Act No. 11285 (Energy Efficiency and Conservation Act)

The Energy Efficiency and Conservation Act is aimed at the efficient and judicious use of energy and the promotion of renewable energy technologies and systems.

The Department of Energy is the lead agency in implementing this law, with several government agencies having their respective roles. Local governments are mandated to establish their respective energy efficiency and conservation offices. Additionally, an interagency energy efficiency and conservation committee is being created to evaluate and approve government energy efficiency projects and provide strategic direction in implementing the government energy management programme.

The law includes provisions for enhancing professional competency and accreditation within energy sector, establishing energy performance standards and labelling requirements for products, equipment, transport vehicles, and buildings. It also categorizes establishments based on their annual energy consumption. Moreover, the law calls for formulating guidelines for waste management collection, recycling, and disposal. Provisions for incentives, fines, and penalties are also stipulated in the law.

### Republic Act No. 11494 (Bayanihan to Recover as One Act)

The Bayanihan to Recover as One Act is aimed at recovering from the impact of the COVID-19 pandemic. Aside from reducing the pandemic's adverse effect on Filipinos' socioeconomic well-being, it included provisions to accommodate alternative modes of transportation, including the establishment of a network of bike lanes on all roads at the local level to address health, environmental, and traffic-related concerns. An allocation of PHP 1.316 billion (\$23.4 million) is set aside to develop accessible sidewalks and protected bike lanes; procure bicycles and safety equipment for distribution; conduct sharing and lending programmes; and install bicycle racks.

The law includes a non-discrimination clause that imposes penalties for any act or series of actions against a person declared confirmed, suspected, probable, exposed, or recovered from the COVID-19 virus, as well as returning overseas Filipino workers (OFWs), health workers, frontliners, other service workers, or the indigent. Such acts result in unjust distinction, exclusion, restriction, physical, psychological harm or suffering, intimidation, harassment, damage to property, public ridicule or humiliation, verbal abuse, arbitrary ejection from dwelling, or unlawful deprivation of liberty.

In this law, however, it must be noted that local chief executives are authorized to reallocate their respective local funds, including their gender and development funds, to address the COVID-19 pandemic.

### Republic Act No. 11898 (Extended Producer Responsibility Act of 2022)

The Extended Producer Responsibility Act of 2022 is an amendment to the Ecological Solid Waste Management Act of 2000. It introduced EPR as part of the State's environmental policy. The EPR means that producers assume responsibility for their products throughout their entire life cycle, especially during the post-consumer or end-of-life stage, as an environmental policy approach and practice.

The law calls for formulating a national framework for EPR, including the reduction of non-environment-

friendly products and introduction of product waste recovery programmes. Specific focus is placed on plastic packaging waste, with provisions targeting large enterprises that generate such waste. These enterprises are required to register and submit their EPR programmes to the National Solid Waste Management Commission and establish auditing systems to ensure compliance with the law. Micro-, small- and medium-sized enterprises are not covered by the EPR but their voluntary participation is encouraged.

Under this law, obliged enterprises may voluntarily organize themselves to form or authorize a Producer Responsibility Organization as a platform to implement their EPR programme. Additionally, the representation of non-governmental organizations has been expanded from one representative to three. Higher penalties were also imposed on obliged enterprises for violations of this law.

To oversee the implementation of this law, the Joint Congressional Oversight Committee has designated the Chairpersons of the Senate Committee on Environment, Natural Resources, and Climate Change and the Committee on Ecology in the House of Representatives, as the leads.

## Recommendations

For climate and environmental laws, below are some recommendations for consideration:

- Revisit the Philippine Clean Air Act of 1999, Ecological Solid Waste Management Act of 2000, Philippine Clean Water Act of 2004, Energy Efficiency and Conservation Act, and Extended Producer Responsibility Act of 2022 to underscore the role of women and other marginalized individuals or groups in implementing these laws.
- Institutionalize the creation of a climate change mitigation and adaptation mechanism at the local level, similar to the CCC, which will coordinate the climate actions and support the formulation of proposals to the PSF, among others. This mechanism should be inextricably linked with the LDRMC, ensuring representation from women and other marginalized sectors alongside government stakeholders.
- Establish and institutionalize a dedicated accountability mechanism for climate and environmental justice, similar to the work undertaken by the Commission on Human Rights in the National Inquiry on Climate Change. Such a mechanism will focus on accounting for violations and omissions of both State and non-State (especially companies and businesses) actors regarding the impact of climate change and environmental disasters on women and other marginalized individuals.
- Revisit the Local Government Code of 1991 to take a more intersectoral approach in addressing climate change's gendered concerns and effects across its standing committees on appropriations, women and family, human rights, youth, environmental protection, and cooperatives.
- Revisit the Philippine Green Jobs Act of 2016 to include women's participation as one of the standards for defining green jobs and provide incentives for companies and businesses that employ a certain percentage of women in such jobs.

## 4.6 Disaster Risk Reduction and Management

The United Nations Convention to Combat Desertification highlights the obligations of State Parties to:

- Promote awareness and facilitate the participation of local populations, particularly women and youth, with the support of non-governmental organizations to combat desertification and mitigate the effects of drought (Art. 5, Section d);
- Ensure that National Action Programmes provide for effective participation of non-governmental organizations and populations at the national and regional levels, involving women and men and resource users, including farmers and pastoralists with their respective organizations, in policy planning, decision-making, implementation, and review of national action programmes (Art. 10, Section f);



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- Build capacities through the full participation at all levels of local people, especially women and youth, with the cooperation of non-governmental and local organizations (Art. 19, Sec. 1, a); and
- Assess educational needs in affected areas, elaborate appropriate school curricula, and expand as needed, educational and adult literacy programmes and opportunities for all girls and women on the identification, conservation, and sustainable use and management of the natural resources of affected areas (Art. 19, Sec. 3, e).

In the recent report of the Philippines to the United Nations Convention to Combat Desertification in March 2023,<sup>65</sup> however, there is no information on national estimates of the female and male population within each drought intensity class and drought vulnerability index. This has likely impacted the absence of any mention of women and gender-related interventions in the preparation of the National Action Plan.

Under CEDAW GR 37, State Parties must collect, analyze, and manage disaggregated data by sex, age, disability, ethnicity, and region. More importantly, they

are responsible for incorporating climate information into disaster planning and decision-making at the sub-national and national levels, ensuring that diverse groups of women are consulted as valuable sources of community knowledge on climate change. State Parties are also called to ensure policy coherence and coordination across disaster risk management, climate change, gender equality, health care, education, social protection and welfare, agriculture, environmental protection, and urban planning. The involvement of the private sector and civil society is also being encouraged to enable environments for gender-responsive investment and international cooperation. Additionally, State Parties must increase the participation of women in disaster risk reduction and climate change planning through capacity development and the provision of resources for such. They also must ensure the provision of culturally appropriate, accessible, and inclusive early warning information, considering the needs of diverse women, including Indigenous Peoples and minority groups, older women, and women with disabilities. Women should also have access to technology for preventing and mitigating the adverse effects of

disasters and climate change on crops, livestock, homes, and businesses. Women must benefit from climate change adaptation and mitigation technology, including renewable energy and sustainable agricultural production.

The General Recommendation also underscores several rights of women in the context of disaster and climate change, such as the right to live free from gender-based violence, education and information, work and social protection and welfare, health, adequate standard of living, and freedom of movement.

Republic Act No. 10121 (Philippine Disaster Risk Reduction and Management Act of 2010) indicates the need for data collection and analysis for disaster risk reduction programmes. However, it does not explicitly mandate disaggregation of such data by sex, age, disability, and ethnicity. While there is a reference to institutionalizing gender analysis, it is seemingly limited to early recovery and post-disaster phases, rather than the entire disaster risk management cycle, which begins from prevention and mitigation, preparedness, response, rehabilitation and reconstruction. At the national level, the National Disaster Risk Reduction and Management Council includes enabled intersectoral coordination involving the PCW. At the local level, the head of the GAD Office serves as the equivalent of the PCW. It is yet to be determined whether local governments have such offices or if the GAD Focal Point is represented and actively engaged in the local DRRMC.

### Republic Act No. 7160 (Local Government Code of 1991)

Under the Local Government Code, local chief executives are responsible for implementing emergency measures during and in the aftermath of natural and human-induced disasters and calamities. Additionally, they are required to submit reports related to disasters and calamities affecting the locality. On the other hand, the local legislature is tasked to adopt measures to protect the municipality's inhabitants from the harmful effects of disasters or calamities and facilitate their return to productive livelihood after.

Local posts have key responsibilities during and after disasters and calamities, such as local health officers,

administrators, agricultural officers, natural resources and environment officers, architects, information officers, cooperative officers, veterinary officers, and general services officers. Legal officers, in particular, are on the frontlines of protecting human rights and prosecuting violators during disasters and calamities.

Five per cent of the estimated revenue from regular sources shall be set aside as an annual lump sum appropriation for unforeseen expenditures arising from calamities. However, this provision applies solely to areas declared by the President to be in a state of calamity.

### Republic Act No. 10121 (Philippine Disaster Risk Reduction and Management Act of 2010)

Situated in the Pacific Belt of Fire, the Philippines is prone to natural disasters, compounded by more recent human-induced disasters such as armed conflict. In 2010, the country pursued a more preventive approach to disasters through the Philippine Disaster Risk Reduction and Management Act of 2010.

The law ensures that disaster risk reduction and climate change measures are gender-responsive, sensitive to Indigenous knowledge systems, and respectful of human rights. It also identified women, children, older people, people with disabilities, and ethnic minorities as vulnerable and marginalized groups. Additionally, the law recognizes complex emergencies as human-induced emergencies "in which the cause of the emergency, as well as the assistance to the afflicted, is complicated by the intense level of political considerations."<sup>66</sup>

The law mandates the inclusion of the PCW in the National Disaster Risk Reduction and Management Council. In addition, it calls for creating local disaster risk reduction and management councils up to the *barangay* or village level, including Gender and Development Focal Points. The DRRM Council's tasks involve responding to and managing the adverse effects of emergencies, carrying out recovery activities in the affected area, ensuring efficient mechanisms for immediate delivery of food, shelter, and medical supplies for women and children, and creating a dedicated place where internally displaced mothers can receive assistance with breastfeeding, feeding

and caring for their babies and support to each other. In addition, each local DRRM council is required to reserve four seats for accredited civil society organizations.

The Office of Civil Defense, serving as the Secretariat of the National Disaster Risk Reduction and Management Council, is mandated to conduct early recovery and post-disaster needs assessment, as well as institutionalize gender analysis. Additionally, it is required to develop and ensure the implementation of national standards in disaster risk reduction programmes, including preparedness, mitigation, prevention, response, and rehabilitation works, from data collection and analysis to planning, implementation, monitoring, and evaluation.

The law included mobilizing volunteers, civil society, and the private sector in the DRRM activities. It also mandates the integration of disaster risk reduction education in the school curricula and enumerates a list of prohibited acts in the context of disaster, particularly relating to the procurement and distribution of relief goods, equipment, and commodities. Additionally, the law calls for allocation of funds amounting to five per cent of the estimated revenue from regular sources for preparedness strategies, with 30 per cent of these funds set aside for quick response efforts.

## Recommendations

For disaster risk reduction and management, below are some recommendations for consideration:

- Enact legislation to safeguard the rights of IDP. The compounding challenges posed by natural and human-induced disasters in the Philippines necessitate the adoption of a comprehensive national legal framework aligned with the Guiding Principles on Internal Displacement.
- Revisit the Philippine Disaster Risk Reduction and Management Act of 2010 to institutionalize gender analysis throughout the entire disaster risk management cycle. Reconsider the five per cent budget allocation set aside by local governments for disaster risk reduction and management to be augmented by the national government for climate change mitigation and adaptation efforts,

particularly focusing on poorer municipalities, such as the fifth and sixth class municipalities.

## 4.7 Gender-based Violence

While the CEDAW does not explicitly refer to VAW, the prohibition of GBV is considered to be a core treaty obligation. Through various General Recommendations—notably General Recommendation No. 19 on VAW (GR 19) and its subsequent update in General Recommendation No. 35 on GBV against women (GR 35), the CEDAW Committee has recognized GBV as a form of discrimination against women under the CEDAW. States Parties are accordingly required to prevent, investigate, prosecute, and provide remedy for GBV incidents, ensuring access to justice for survivors.

The CEDAW Committee's GR 37 emphasizes State Parties' obligation to develop policies and programmes to address existing and new risk factors for GBV in the context of disaster risk reduction and climate change; promote the participation and leadership of women; ensure that the minimum legal age of marriage is 18 years for both women and men; include training on the prevalence of early and forced marriage for all personnel involved in disaster response activities and establish mechanisms to prevent, monitor and address early and forced marriages; provide accessible, confidential, supportive and effective mechanisms for all women reporting GBV; develop a regular monitoring and evaluation system of interventions designed to prevent and respond to GBV with disaster risk reduction and climate change programmes; and, adopt long-term policies and strategies to address the root causes of GBV in situations of disaster, engaging other stakeholders for such.

The Magna Carta of Women in Section 10 provides that “women have the right to protection and security in times of disasters, calamities, and other crisis situations especially in all phases of relief, recovery, rehabilitation, and construction efforts. The State shall address the particular needs of women from a gender perspective to ensure their full protection from sexual exploitation and other sexual and gender-based violence committed against them. Responses to disaster situations shall include the provision of

services, such as psychosocial support, livelihood support, education, psychological health, and comprehensive health services, including protection during pregnancy.”<sup>67</sup>

Despite this provision from the Magna Carta, except for Republic Act No. 11313 (Safe Spaces Act), most of the laws reviewed in this section have not considered the nexus of GBV in the context of climate-related and human-induced emergencies. However, Republic Act No. 11313 expands the coverage of sexual harassment to include streets, public spaces, online workplaces, educational or training institutions, and evacuation centres. Furthermore, it defines several prohibited acts, including expressing homophobic remarks, within these covered public areas.

Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004) guarantees the protection and safety of women and their children from violence. The law provides an expansive definition of violence against women and their children, and established procedures for ensuring better access to support services for survivors, including protection orders, which can be issued by courts as well as by the *barangay* through the *barangay* protection orders. Republic Act No. 8353 (The Anti-Rape Law of 1997) has broadened the scope of persons authorised to file a case against an alleged perpetrator of rape, but retains a focus on corroborating evidence of rape, rather than the absence of consent. The law also provides that rape occurs when the victim is aged under 12 years, irrespective of “consent,” but leaves individuals aged 12 and older subject to the higher threshold for proving rape which requires, for example, evidence of threat, intimidation or force. The CEDAW Committee has previously recommended to the Philippines that the age of sexual consent be raised to at least 16 years of age.<sup>68</sup>

The Local Government Code of 1991 provides for opportunities to prevent and settle conflicts, such as the *Katarungang Pambarangay* (*Barangay* Justice System). However, while *barangays*, which are often the most easily accessible governance unit, can issue protection orders, they are expressly prohibited from mediating or conciliating cases of GBV as mandated by the Anti-Violence Against Women and Their Children (VAWC) Act of 2004. This prohibition has been put in place in response to the practice of using mediation

and other means to discourage women from filing cases against their abusers. Legal experts indicate that it is still common practice for GBV cases that are brought to *barangay* officials to be settled or conciliated, contrary to the prohibition. However, when conciliation does not occur, the council can use it as an entry point for reporting abuse and violence, referring the case to other local authorities, such as the social welfare officer, police, and health officer, among others.<sup>69</sup>

The Magna Carta of Women also provides for the establishment of the Anti-VAWC Desk in every *barangay*. Being at the frontlines delivering services, especially during disasters and other crises, is a critical provision for supporting GBV survivors. *Barangay* Anti-VAWC Desk staff assist survivors in securing services, including the protection order; develop the *barangay*'s gender-responsive plan; and coordinate with other agencies and organizations to address GBV, among others. There is a need to explore with more depth how these Anti-VAWC Desks operate in situations of climate crisis, in particular their response to addressing the needs of GBV survivors.

While the Philippines has Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003) and managed to be in Tier 1 ranking in the United States' 2022 Trafficking in Persons Report, challenges remain. Most of the recorded cases of trafficking of women and girls are from the poorest provinces of the country, many of which are also affected by conflict and disasters, such as Samar, Zamboanga, and Leyte, among others.<sup>70</sup> When they become displaced, the absence of protection mechanisms renders these women and girls even more prone to abuse and trafficking.

The Philippines passed Republic Act No. 9745 (Anti-Torture Act of 2009). However, the country has yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance as well as enacting a law that will establish national preventive mechanisms consistent with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

Human Rights Victims Reparation and Recognition Act of 2013) offers valuable insights for the enactment of a similar law addressing climate justice. This law specifically covers human rights violations occurred within a defined period, i.e., 21 September 1972

until 25 February 1986, encompassing offences such as enforced disappearance, killings, torture, rape, sexual abuse, arbitrary detention, and other violations which may cover any act of force, intimidation, or deceit causing unjust or illegal takeover of a business, confiscation of property, detention of owner/s and their families, and deprivation of livelihood of a person by State agents. Given the *Writ of Kalikasan* (see Part 4 of this report) and the recommendations of the CHR in the National Inquiry on Climate Change (see Part 4 of this report), State and non-state actors, including businesses, must be held liable for violations of the rights of Filipinos to a balanced and healthful ecology. The accountability extends to addressing GBV in the context of defending the environment and natural resources.

While Republic Act No. 11596 (Prohibition of Child Marriage Law) has been enacted, there is a need for government agencies to remain vigilant regarding the occurrence of child and forced marriages, especially in the context of poverty and displacement brought about by natural and human-induced disasters. In ICCs and conflict-affected areas in the southern Philippines, child marriage was found to be commodified or done out of convenience amid displacement in exchange for humanitarian assistance.<sup>71</sup>

### Republic Act No. 7160 (Local Government Code of 1991)

The Local Government Code of 1991 empowers the *barangay* to facilitate amicable settlements of all disputes through mediation, conciliation, and arbitration. The *Katarungang Pambarangay* (*Barangay Justice System*) covers all civil disputes and criminal offences punishable by imprisonment not exceeding one year or a fine not exceeding PHP 5,000 (\$89) among parties involved within the same municipality or city.

The Local Government Code of 1991 provides for the establishment of the *Lupon Tagamayapa* (Pacification Committee). The *Lupon* does not act as a court with judicial powers; it is intended to facilitate dialogue among conflicting parties and arrive at an agreement or settlement through mediation, conciliation or arbitration. The *punong barangay* (*barangay head/*

captain) appoints 10-20 members for the *Lupon*. The *Barangay Captain* and the *Lupon* conduct mediations while conciliations are undertaken by the *Pangkat Tagapagkasundo*, a council consisting of three members. Both bodies can resolve disputes through arbitration, rendering a decision with prior agreement from both parties to be bound by such decision. All settlements are documented, following various forms.

Under the Anti-VAWC Act of 2004, cases of GBV must not be settled through the *Katarungang Pambarangay* (*Barangay Justice System*). The Act provides that doing so will result in administrative liability under the law.

### Republic Act No. 8353 (The Anti-Rape Law of 1997)

The Anti-Rape Law of 1997 reclassifies the crime of rape from its previous categorization as a crime against chastity (where presumed chastity is an element of the offence) to recognize the offence as a crime against persons.<sup>72</sup> Additionally, the Act shifts away from previous conceptions of rape as a private offence, in which only the offended party or his/her parents, grandparents, or guardian were allowed to file a complaint against the offender. Instead, the Anti-Rape Law allows “anyone with knowledge of the case to file on behalf of the victim”.<sup>73</sup>

However, the law retains a restrictive conception of rape as an offence that can only be committed through “force, threat, intimidation, fraudulent machination, or the grave abuse of authority by the offer,” rather than focusing on the absence of the victim’s consent. Thus, there are cases where the accused is acquitted because the complainant could not prove that the victim was forced or intimidated enough, i.e., there were no signs of struggle on the victim’s body.<sup>74</sup> Requiring such corroboration of a victim’s statement through other evidence has been defined by the CEDAW Committee as violating the right to equality before the law in GR 33.<sup>75</sup>

The law defines rape to include cases involving victims under 12 years of age or not mentally able, regardless the circumstances mentioned above.<sup>76</sup> The age is set at 12 years based on the recognition that individuals below this age lack the capacity to provide consent due

to their inability to exercise independent will. However, this leaves children vulnerable to proving the restrictive conception of rape (i.e., requiring evidence of threat, intimidation, force, etc.).

### Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003), amended by Republic Act No. 10364 (Expanded Anti-Trafficking in Persons Act of 2012)

The Philippines is recognized as both a source and transit country for trafficking in persons and sexual exploitation. In 2018, the Human Trafficking Division of the National Bureau of Investigation reported more than 700,000 victims of human trafficking, putting the Philippines in the twelfth rank among countries with the highest incidence of trafficking in Asia-Pacific.<sup>77</sup>

To deal with trafficking in persons, the Anti-Trafficking in Persons Act of 2003 was passed; and was further amended by the Expanded Anti-Trafficking in Persons Act of 2012. The law imposes penalties for human trafficking, especially of women and children and establishes mechanisms to protect and support victims.

In 2019, the Philippines remained in Tier 1 of the United States Department of State Trafficking in Persons Report.<sup>78</sup> Tier 1 is the highest rank that can be given to a country whose government has acknowledged its issues on human trafficking, made efforts to address them, and complies with the Trafficking Victims Protection Act of 2000 of the United States Department of State.

The law mandated the establishment of an Inter-Agency Council to chart the course to combat trafficking. Eventually named the Inter-Agency Council Against Trafficking, it is comprised of representatives from national government agencies and non-governmental organizations working with women, OFWs and children. Additionally, the law mandates local government units to provide services to ensure the recovery, rehabilitation, and reintegration of trafficked persons. These services include temporary housing, psychological support, legal, medical, and psychological services, as well as the operation of a 24-hour crisis centre that serves as a counselling and referral system.

### Republic No. 9262 (Anti-Violence Against Women and Their Children Act of 2004)

The Anti-VAWC Act of 2004 recognizes the importance of respect for human rights, and the “need to protect the family and its members particularly women and children from violence and threats to their personal safety and security”.<sup>79</sup> The law covers acts of violence within domestic partnerships—whether married or unmarried—and extends protection to their children, whether biological or not. The law defines the crime of violence against women and children, encompassing a range of acts, such as threatening and/or causing physical harm, financial stress, sexual assault and other forms of harm. Survivors can file criminal and civil cases for domestic violence and abuse, as well as seek protection orders, among other forms of relief and remedies available.<sup>80</sup>

### Republic Act No. 9745 (Anti-Torture Act of 2009)

The Anti-Torture Act of 2009 was enacted in alignment with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and it recognizes other international treaties, such as the International Covenant on Civil and Political Rights, Convention on the Rights of the Child, and CEDAW. The law covers physical torture, including rape and sexual abuse; mental and psychological torture; and other cruel, inhuman and degrading treatment or punishment. Furthermore, it provides penalties for acts of torture combined with rape and other forms of sexual abuse and their consequences, including torture against children. It also covers acts of torture against a detainee or a prisoner and prohibits detention where torture may be carried out with impunity.

As the Philippines ratified the OPCAT on 17 April 2012, it is incumbent upon the States Parties to comply with the obligations contained in the OPCAT, including the establishment of national mechanisms for the prevention of torture. Such a mechanism must be empowered to conduct regular monitoring visits to all places where persons are deprived of liberty, identify early warning signs, and thus prevent instances of torture and other cruel, inhuman, or degrading treatment or punishment. This national

preventive mechanism must be independent, free from governmental influence and provided with sufficient resources to carry out its work effectively. It must also have the power to access all places of detention without restriction, to access all information, and to be able to talk with detained persons in private.

### Republic Act No. 10368 (Human Rights Victims Reparation and Recognition Act of 2013)

The Human Rights Victims Reparation and Recognition Act of 2013 was passed in recognition of the State's commitment to the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Its scope extends to human rights violations committed from 21 September 1972 (the imposition of Martial Law) to 25 February 1986 (People Power Revolt). Additionally, the law establishes the Human Rights Victims Claims Board, which provides reparations for the survivors of human rights violations during the Marcos regime.

The reparations are granted on a point system, which corresponds to the severity of the violations endured. For instance, cases of enforced disappearance and killing are allocated ten points, while victims subjected to torture and rape or sexual abuse may receive from six to nine points. Arbitrary detention is assigned from three to five points, while other violations are rated at one or two points. A claimant deemed eligible by the Board will receive a monetary reparation of PHP 176,779 (\$3,149) per point.

A sunset clause stipulates that the Board shall complete its work within two years from the entry into force of the implementing rules and regulations. The Board anticipated around 20,000 claims but received over 75,000 applications, of which only 11,103 were approved.<sup>81</sup> In April 2016, Republic Act No. 10766 (Extension of Human Rights Victims Claims Board) was passed, extending its work until 12 May 2018. While it closed its operations in 2018, there were still pending payments to be released by the Philippines Commission on Human Rights (PCHR). No applications for new claims and appeals were accepted.

Meanwhile, the Transitional Justice and Reconciliation Commission was created under the Comprehensive Agreement on the Bangsamoro to conduct a study and make recommendations to address legitimate grievances, historical injustices and human rights violations, including marginalization through the dispossession of the Bangsamoro<sup>82</sup> people. It is not an investigative nor a quasi-judicial body that deals with prosecuting perpetrators of mass atrocities, truth-seeking on human rights violations, reparations for victim-survivors of mass atrocities, and reform for institutions previously involved in them. However, a bill establishing a national transitional justice has gained traction in both houses of Congress, while efforts to develop a regional transitional justice body in Bangsamoro are being deliberated among parliamentarians.

### Republic Act No. 11313 (Safe Spaces Act)

The Safe Spaces Act extends the coverage of protections against sexual harassment to new areas, including "streets, public spaces, online, workplaces and educational or training institutions".<sup>83</sup> The law defines potential forms of sexual harassment in these settings, establishing the duties and liabilities of local authorities as well as the other key actors, such as employers and heads of educational institutions to address sexual harassment. Notably, the law recognizes sexual harassment against persons of diverse sexual orientations and gender identities or expressions by prohibiting homophobic or transphobic slurs.<sup>84</sup>

The Safe Spaces Act establishes penalties depending on the form of sexual harassment committed, including fines, community service and in some cases imprisonment. The law recognizes that students, peers and subordinates in educational and workplace settings can commit the crime of sexual and gender-based violence. It also provides additional duties for "persons of authority, influence or moral ascendancy," such as employers and school heads, to prevent, deter, or punish acts of gender-based sexual harassment in the workplace or school premises. To achieve this, the law requires employers and school heads to create an internal independent mechanism or a committee on

decorum and investigation to investigate and address GBV complaints.

The law also creates a Joint Congressional Oversight Committee to monitor the implementation of the act, co-chaired by the Chairpersons of the Senate Committee on Women, Children, Family Relations and Gender Equality and the House Committee on Women and Gender Equality. Further, the law requires the PCW, in coordination with other key agencies and at least three women's organizations, to formulate implementing regulations for the Safe Spaces Act.

### Republic Act No. 11596 (Prohibition of Child Marriage Law)

One of the laws recommended for repeal in the Magna Carta of Women is Executive Order No. 209 (The Family Code of the Philippines). Article 14 provides a preference for the father's consent to the marriage of children between the ages of 18 and 21. Contrary, the enactment of the Prohibition of Child Marriage Law underscores the principle that marriage should only occur with the free and full consent of both parties. Additionally, it emphasizes that child betrothal or marriage bear no legal effect.

Among the unlawful and prohibited acts under the law are the facilitation and solemnization of child marriage and cohabitation of an adult with a child outside wedlock. Such actions are considered public crimes and can be reported by any concerned individual.

According to this law, the government must create an enabling environment to prevent child marriage, particularly for girls, such as empowerment of children through the provision of information, skills, and support networks; enhancement of children's access to and completion of quality education; provision of economic support and incentives to children and their families; and application of strategic interventions to influence and empower parents and community leaders to discourage and eradicate the practice of child marriage. The DSWD is mandated to develop culturally appropriate and comprehensive programmes and services; other agencies are also identified with specific roles concerning preventing and protecting

children. The law also calls for government partnerships with women, girls, youth organizations, and civil society organizations.

In addition to the above laws, there are several other laws on GBV in certain specialized contexts, which are beyond the scope of the present analysis. These include Republic Act No. 7877 (Anti-Sexual Harassment Act of 1995); Republic Act No. 8505 (Rape Victim Assistance and Protection Act of 1998); Republic Act No. 9995 (Anti-Photo and Video Voyeurism Act of 2009); Republic Act No. 10175 (Cybercrime Prevention Act of 2012); and Republic Act No. 11188 (Special Protection of Children in Situations of Armed Conflict Act).

### Recommendations

For GBV, below are some recommendations for consideration:

- Implement effective monitoring measures to ensure that cases of GBV are not mediated or conciliated at the local government level, including by *barangay* officials, in accordance with the Anti-Violence Against Women and their Children Act of 2004.
- Revise the definition of rape within The Anti-Rape Law of 1997 to prioritize the absence of consent as the central element, eliminating the requirement for corroborating evidence of the perpetrator using threats, intimidation, force, fraudulent machinations or grave abuses of authority in order to establish rape. Additionally, incorporate a list of presumptions where consent cannot be considered to be freely given, such as when a victim is unconscious or unable to give consent because of a disability.
- Revise the Anti-Violence Against Women and Their Children Act of 2004 to ensure the law is responsive to the special needs of women and children during emergencies. The law should make accessible sexual and GBV services, including protection orders, even in complex situations, such as climate disasters.
- Revise the Anti-Trafficking in Persons Act of 2003 to standardize guidelines on the systematic collection of data on GBV in trafficking cases, as per the previous recommendations of the CEDAW Committee to the Philippines.

- Ratify the Convention for the Protection of All Persons from Enforced Disappearance, considering the heightened risks and growing threats faced by land and environmental rights defenders, particularly women, in recent years.
- Assess the effectiveness of the *Barangay* VAW Desks in situations of climate crisis, particularly regarding the response to the needs of GBV survivors.
- Enact legislation establishing a national preventive mechanism against torture, consistent with the OPCAT. Establish an independent body to conduct prompt, impartial, thorough and transparent investigations into all killings, including those related to land and environmental rights defenders, and into alleged violations of international humanitarian law. These efforts should be aimed at prosecution and the provision of remedies for victims and their families, consistent with recommendations of the HRC.
- Establish and institutionalize a dedicated accountability mechanism for climate and environmental justice, similar to the work undertaken by the national human rights institution in the National Inquiry on Climate Change. This mechanism will be specifically designed to address violations and omissions of both State and non-State (especially companies and businesses) actors on the impact of climate change and environmental disasters on women, and other marginalized individuals.
- Enact legislation on transitional justice encompassing not only reparations but also responses to all types of atrocities and systemic abuses on women and marginalized communities. Ensure full reparations for human rights violations, recognizing the nexus of land, natural resources, environment-related violations, and gender-based violence.
- Revise Safe Spaces Act to provide guidelines on community service as a penalty.

## 4.8 Social Protection and Welfare

Under GR 37, States Parties should invest in gender-responsive social protection and welfare systems and social services that reduce economic inequalities between women and men and enable women to mitigate disaster risk and adapt to the adverse effects of climate change. Eligibility criteria for social protection and welfare should be non-discriminatory. States Parties should also ensure the disaster resilience of workplaces and critical infrastructure to guarantee that these are operational as possible, following disasters, for income-generating and domestic activities. Additionally, they should guarantee women's equal right to decent and sustainable employment in disaster prevention, management, and recovery, as well as climate change adaptation in both urban and rural areas. Furthermore, States should facilitate equal access for women to productive resources and insurance schemes, thereby enabling women to claim social benefits such as pensions and other social security entitlements. States Parties should address the unequal burden of unpaid and care work that women perform in the context of disaster and climate change. They should also protect and promote women's right to access training in non-traditional work areas, including within the green ecology and sustainable livelihoods in the advent of disaster and climate change prevention, preparedness, mitigation, and adaptation.

Aside from this, States Parties should promote and protect women's equal rights to food, housing, sanitation, land, and natural resources, including adequate drinking water, water for domestic use, and food production, with particular attention to women living in poverty and those in informal settlements in both urban and rural areas, especially in the context of disasters and climate change. They should develop participatory, gender-responsive development plans and policies integrating a human rights-based approach to guarantee sustainable access to adequate housing, food, water, and sanitation. Lastly, the States Parties should adopt legislation, programmes, and policies and allocate budgets to eliminate homelessness as well as to ensure that adequate and disaster-resilient housing is available and accessible to all women, including those with disabilities. Measures should be undertaken to

protect women against forced eviction and to ensure that public housing and rental assistance schemes accord priority and respond to the specific needs of groups of women.

Nevertheless, except for Republic Act No. 7875 (National Health Insurance Act of 1995) and Republic Act No. 9994 (Expanded Senior Citizens Act of 2010), none of the laws reviewed under this section have explicitly considered the impact of environmental hazards, disasters, and climate change on the provision of social protection and welfare benefits.

Republic Act No. 7277 (Magna Carta for Disabled Persons) and its amendment, Republic Act No. 10754 (“An Act Expanding the Benefits and Privileges of Persons with Disability”), have not yet indicated affirmative actions for PWD as priority beneficiaries of social services, relief, social protection and welfare in disasters and emergencies, considering their mobility and other physical challenges. To illustrate, when lockdowns were implemented at the height of COVID-19, vulnerable individuals such as PWD were not allowed to go out. Given this, there was an onslaught of complaints from PWD who could not receive relief and other benefits.<sup>85</sup>

Republic Act No. 8282 (Social Security Act of 1997), amended by Republic Act No. 11199 (Social Security Act of 2018), does not explicitly address disability, death or sickness benefits brought about by prolonged exposure to hazardous chemicals and elements, nor does it establish liabilities and obligations for employers in such cases. It is worth noting that under Republic Act No. 11058 (Occupational Safety and Health Standards Law), there is a provision to claim compensation benefits for work-related disability or death. However, this appears to cover formal work, including economic zones and micro- and small enterprises.

While the *Pantawid Pamilyang Pilipino Program’s* (Bridging Program for the Filipino Family, also known as 4Ps) targeting system proved helpful in the distribution of emergency cash top-ups from the World Food Programme and the United Nations Children’s Fund during post-Typhoon Haiyan (locally known as Yolanda), Republic Act No. 11310 (Pantawid Pamilyang Pilipino Program (4Ps) Act) sets out eligibility requirements that

do not seem to consider the volatility of climate change and disasters to households and communities. The law employs a Standardized Target System to determine eligibility for programme, treating impoverished families as “static”. Additionally, it does not consider other affected families that may be equally as poor or poorer and as or more affected by the disaster.<sup>86</sup> Such discrepancy was particularly evident during the COVID-19 pandemic when many individuals lost their jobs, and the government could not update its database to capture this information and provide immediate assistance to non-4Ps beneficiaries. Based on a scoping study by the World Food Programme, it was revealed that the *Listahanan* (list) of 4Ps beneficiaries has limited information on household members, whether they are the PWD, IPs, IDP, or informal sector workers, among others. This lack of data fails to anticipate vulnerabilities to economic shocks or geographical risks, such as those posed by GIDA or hazard-prone locations.<sup>87</sup>

Housing is not covered by Conditional Cash Transfers under the 4Ps. The programme also does not include the establishment of safe housing as part of its conditionalities. While including housing into the transfers would impose significant costs, there appears to be no incentive for households to prioritise residing in safe zones or set up housing that can withstand natural and human-induced disasters. Based on the Family Income and Expenditure Survey of 2018, there are 2.45 million informal settlers, representing 2.32 per cent of the population. 600,000 of these individuals live in the National Capital Region,<sup>88</sup> putting them at a greater risk of losing their homes in case of disasters and other emergencies. Moreover, these households do not have access to proper water, sanitation, and hygiene facilities. Informal settlers and urban low-income families face further challenges in accessing essential services and are vulnerable to exploitation and violence. Despite the guarantees indicated in Republic Act No. 7279 (Urban Development and Housing Act of 1992), there is a prevailing lack of security of tenure, leading to forced evictions or demolitions of informal settlers. In relocation areas, while houses are new, they are often constructed of light materials and lack basic utilities, such as electricity and water, as well as access to social services like

schools. Additionally, livelihood or employment is also unavailable, pushing relocated households to return to their demolished houses' locations where they can tap sources of income. Those who decide to stay in resettlement facilities face payment issues due to low income and high interest rates. Negotiating with the government to convert idle and unused industrial government lots into residential sites is a slow and tedious process, with informal settlers shouldering the burden of eviction costs.<sup>89</sup>

Despite the provisions in Republic Act No. 9999 (Free Legal Assistance Act of 2010) to ensure an annual information, education and communication campaign to raise public awareness of free legal assistance, the majority of Filipino women are unaware of how and where to seek access to justice services and remedies, especially for abuse, violence, and land and property rights. According to the World Justice Project 2018 Survey, only 20 per cent of Filipinos could access legal help. Out of this 20 per cent, only 15 per cent sought the help of lawyers. Various factors contribute to the limited accessibility of legal services among Filipinos, including financial and time constraints, mobility issues, and lack of contact with lawyers.<sup>90</sup>

### Republic Act No. 6972 (*Barangay-Level Total Development and Protection of Children Act*)

The *Barangay-Level Total Development and Protection of Children Act* guarantees the establishment of daycare centres at the *barangay* level for children up to 6 years of age, with parents' consent. Primarily, the law is intended to ensure birth registration and immunization; growth and nutritional monitoring, providing supplementary nutritional feeding and supervision of nutritional intake at home; care of children of working mothers during the day and when mothers are working at night; provision of materials and network of surrogate mothers-teachers who provide intellectual and mental stimulation to children; sanctuary for abused, neglected or exploited children; referral and support system for pregnant mothers for pre- and neonatal care; and a support system among the members of the *barangay*. While the *barangays* are the lead in the implementation of this law, the

DSWD is tasked to formulate the criteria for selection, qualifications, and training accreditation of *barangay* daycare workers, coordinate activities between non-governmental organizations, daycare workers and other social workers, as well as protect and assist abused, neglected, or exploited children.

### Republic Act No. 7277 (*Magna Carta for Disabled Persons*), amended by Republic Act No. 10754 (*An Act Expanding the Benefits and Privileges of Persons with Disability*)

The Magna Carta for Disabled Persons defines PWD and outlines their rights and privileges, such as in the area of employment, education, health, auxiliary social services, telecommunications, accessibility, and political and civil rights. It prohibits discrimination against PWD regarding employment, transportation, public accommodations and services, and government recreational or sports centres. Additionally, the law also guarantees that the national government considers the special housing needs of disabled persons and provides tax incentives to government agencies and donations from foreign countries engaged in the rehabilitation of PWD and related organizations.

The Secretary of Justice is mandated to investigate alleged violations of this law and pursue legal action in any appropriate court if there is reasonable cause by any person or group of persons engaged in a pattern of discrimination against PWD.

In 2016, An Act Expanding the Benefits and Privileges of Persons with Disability amended Section 32 of the Magna Carta for Disabled Persons, defining the benefits and privileges of PWD to include at least 20 per cent discount and value-added tax exemption for goods and services for the exclusive use and enjoyment or availment of the PWD. This applies to medicine and health services, such as recreation, fares, funeral, and burial services; educational assistance; continuance of benefits and privilege under the Government Service Insurance System, Social Security System and Home Development Mutual Fund (Pag-IBIG Fund); discounts to special programmes of the Department of Trade and Industry and Department of Agriculture, and express lanes in all commercial and government establishments.

The law also incentivized taxpayers with PWDs within their fourth civil degree of consanguinity or affinity, regardless of age, and not gainfully employed, to treat them as dependents under Section 35(b) of the National Internal Revenue Code of 1997.

### **Republic Act No. 7279 (Urban Development and Housing Act of 1992)**

The Urban Development and Housing Act of 1992 aims to continue the country's urban development and housing programme. Under this law, a national urban development and housing framework shall be formulated by the Housing and Land Use Regulatory Board under the direction of the Housing and Urban Development Coordinating Council. The framework shall review and rationalize existing land use plans, housing programmes and other projects that may affect urban land use patterns, transportation and public utilities, infrastructure, environment, and population movements.

All city and municipal governments must inventory all lands and improvements within their localities. Following this inventory, local governments are required to identify, acquire and allocate lands for socialized housing and resettlement areas for the underprivileged and homeless in urban areas. This allocation must take in consideration the availability of essential services and facilities, accessibility and proximity of job sites and other economic opportunities, as well as the actual number of registered beneficiaries.

The law also incentivizes the private sector to participate in socialized housing. Essential services in socialized housing or resettlement areas are also defined in the law, such as potable water, power, electricity, adequate power distribution system, sewerage facilities, solid waste disposal system, access to primary roads and transportation facilities, and employment and livelihood. Participation of socialized housing beneficiaries is guaranteed by the law. Beneficiaries are encouraged to organize and undertake self-help cooperative housing and other livelihood activities.

The law established penalties and fines against professional squatters and squatting syndicates.

Eviction and demolition as a practice are discouraged under the law, except under certain circumstances, such as when the settlers are occupying dangerous areas; impeding the implementation of government-funded infrastructure projects; or when ordered by a court. The law imposes specific requirements for executing eviction and demolition orders, which include issuing a 30-day notice prior to the eviction or demolition date, conducting adequate consultations with affected families and communities, and ensuring that eviction or demolition is executed during regular office hours on weekdays and under favourable weather conditions, among others.

The law introduces Community Mortgage Program to enable legally organized associations of the underprivileged and homeless to purchase and develop a tract of land for housing. Additionally, it includes provisions to promote indigenous housing materials and technologies; develop a viable transport system; conserve and protect vital, unique, and sensitive ecosystems, scenic landscapes, and cultural sites in resource areas; and monitor population movements and urban-rural interdependence.

Local governments are the lead in implementing the law in coordination with the Housing and Urban Development Coordinating Council, national housing agencies, the Presidential Commission for the Urban Poor, private sector, and non-government organizations. Mandates of various housing agencies for implementing the law are also stipulated.

### **Republic Act No. 7432 (An Act to Maximize the Contributions of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes), amended by Republic Act No. 9257 (Expanded Senior Citizens Act of 2003) and further amended by Republic Act No. 9994 (Expanded Senior Citizens Act of 2010)**

The Act to Maximize the Contributions of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes defines senior citizens as "any resident of the Philippines at least sixty years old, including those who have

retired from both government offices and private enterprises.<sup>91</sup> It provides for mechanisms where senior citizens' contribution can be maximized, such as the establishment of the Office of Senior Citizen Affairs, and introduces privileges such as 20 per cent discounts in services and establishments, exemption from income taxes, free medical and dental services in government institutions, as well as the continuance of benefits and privileges from the Government Service Insurance System, Social Security System, and Home Development Mutual Fund.

Similar to people with disabilities, senior citizens cared for by taxpayers may be considered dependents under the National Internal Revenue Code. Incentives are also extended to individuals or organizations catering to senior citizens. Penalties are imposed for violations of this law.

The Expanded Senior Citizens Act of 2003 introduced more specific discounts for senior citizens. These include a 20 per cent discount on medical and dental services, as well as diagnostic and laboratory fees, including professional fees of attending doctors in all private hospitals and medical facilities, regulated by the Department of Health, in coordination with the Philippine Health Insurance Corporation. Furthermore, senior citizens are entitled to a 20 per cent discount on fare for domestic air and sea travel, as well as on public railway, skyway, and bus fare. Discounts are provided in special programmes for senior citizens for purchase of essential commodities, subject to the guidelines by the Department of Trade and Industry and the Department of Agriculture. It also included provisions for educational assistance and express lanes for senior citizens in all commercial and government establishments.

Under the Expanded Senior Citizens Act of 2010, a 20 per cent discount and exemption from the VAT was extended on the purchase of medicines and other essential medical supplies, accessories and equipment. This discount also applies to the professional fees of attending physicians in all private hospitals, medical facilities, outpatient clinics and home health care services; as well as professional costs of licensed health professionals providing home health care services. Additionally, senior citizens receive a 20 per cent

discount on actual fare for land transportation travel, domestic air transport services, and sea shipping vessels. Discounts are provided for services in hotels and similar lodging establishments; restaurants and recreation centres; admission fees to theatres, cinema houses and concert halls; circuses, leisure and amusement centres; and funeral and burial services for deceased senior citizens. A minimum of a five per cent discount is granted on a monthly utilization of water and electricity supplied by the public utilities, provided that the individual metres are registered in the name of the senior citizen, among other requirements. Death benefit assistance is also extended to the nearest surviving relative of a deceased senior citizen, with a minimum of PHP 2,000 (about \$36).

Social pension of PHP 500 (about \$9) per month, mandatory Philippine Health Insurance Coverage (PhilHealth), social safety nets such as food, medicine, and financial assistance for domicile repair in cases of economic shock, disasters, and calamities are also included in this law.

### **Republic Act No. 7875 (National Health Insurance Act of 1995), amended by Republic Act No. 10606 (National Health Insurance Act of 2013)**

The National Health Insurance Act of 1995 guarantees public health services to all groups, such as women, children, IPs, IDP, and communities in environmentally endangered areas. In addition, the law's guiding principles prioritize the needs of the underprivileged, sick, elderly, disabled, women, and children.

This law was amended by the National Health Insurance Act of 2013, which removed the provisions that previously excluded personal health services under the National Health Insurance Act of 1995, such as non-prescription drugs and devices, outpatient psychotherapy and counselling for mental disorders, drug and alcohol abuse or dependency treatment, cosmetic surgery, home and rehabilitation services, optometric services, and normal obstetrical delivery. However, "cost-ineffective" procedures remain excluded under the amended law.<sup>92</sup>

### Republic Act No. 8282 (Social Security Act of 1997), amended by Republic Act No. 11199 (Social Security Act of 2018)

Consistent with the principles of social justice, Social Security Act of 1997 is intended to provide social protection and welfare to workers in the private sector and their beneficiaries.

This law covers pensioner's and dependents' pension, retirement benefits, death benefits, permanent and temporary disability benefits, funeral benefits, sickness benefits, including maternity leave benefits, and life insurance benefits. Under the Social Security Act of 2018, coverage is compulsory for the *kasambahay* (domestic workers) and OFWs; unemployment insurance or involuntary separation benefits are included.

Section 3 of the Social Security Act of 2018 stipulates that one of the seven appointive members shall be a woman from the workers' group, and another woman from the employers' group, selected from the nominees of workers' and employers' organizations, respectively.

### Republic Act No. 9999 (Free Legal Assistance Act of 2010)

The Free Legal Assistance Act of 2010 guarantees free legal assistance to people experiencing poverty. It ensures that every person who cannot afford the services of a counsel is provided with a competent and independent counsel, preferably of one's choice, if, upon determination, the party cannot afford the services of a counsel.

A certification from the Public Attorney's Office, Department of Justice, or any accredited association of the Supreme Court shall be secured by a lawyer or a professional firm indicating that the legal services to be provided are within the services defined by the Supreme Court and that the aforementioned agencies are unable to provide these specific legal services. In turn, the lawyer or professional firm shall issue a certification for the provision of free legal services, indicating the number of hours rendered.

Lawyers and professional firms shall be entitled to an allowable deduction from their gross income. This amount could have been collected for the actual free legal services rendered or up to 10 per cent of the gross income derived from their actual performance of the legal profession.

However, for the effective implementation of this law, implementing rules are required.

### Republic Act No. 11201 (Department of Human Settlements and Urban Development Act)

The Department of Human Settlements and Urban Development Act consolidates the various housing agencies under the Department of Human Settlements and Urban Development, including the Housing and Urban Development Coordinating Council and the Housing and Land Use Regulatory Board. It shall have administrative supervision over the National Housing Authority, National Home Mortgage Finance Corporation, Home Development Mutual Fund, and Social Housing Finance Corporation. The department shall be the primary national government entity for housing, human settlement and urban development. It shall perform policy development, coordination, monitoring, and evaluation; environmental, land use, and urban planning and development; housing and real estate development regulation; homeowners association and community development, among other functions.

The Housing and Land Use Regulatory Board becomes the Human Settlements Adjudication Commission, mandated to handle cases decided by the regional adjudicators and appeals from decisions of local and regional planning and zoning bodies. Such cases may involve subdivisions, condominiums, memorial parks, real estate developments, and homeowners' associations.

The law mandates the establishment of the Housing One-stop Processing Centers at the regional level to centralize the processing and issuance of all required housing permits, clearances, and licenses. The Department of Human Settlements and Urban

Development, DENR, Department of Agrarian Reform, Department of Agriculture, Department of Interior and Local Government, and LRA are mandated to jointly identify government lands for housing and rural development.

### Republic Act No. 11223 (Universal Health Care Act)

The Universal Health Care Act guarantees equitable access to quality, affordable healthcare goods and services, and protection against financial risk. Chapter III, Section 13 stipulates that at least two of the Philippine Health Insurance Commission panel members must be women.

### Republic Act No. 11310 (Pantawid Pamilyang Pilipino Program (4Ps Act))

The 4Ps Act took off from the Social Welfare and Development programme during the Aquino Administration. Under this law, the government shall invest and harness the country's human capital and improve the delivery of essential services to the poor, particularly education, health, nutrition, and early childhood care and development to break the intergenerational cycle of poverty. The law aims to promote gender equality, women's empowerment, and children's rights through Family Development Sessions in which households must participate. These sessions contain modules on topics such as civic and political rights, gender equality, and sexual and reproductive health.

This law provides for conditional cash transfers to poor households for a maximum period of seven years, subject to a more extended period under exceptional circumstances as recommended by the National Advisory Council, led by the DSWD.

Qualified household beneficiaries of the 4Ps shall use a standard targeting system, with periodic revalidation of beneficiary eligibility set every three years. Eligible beneficiaries are farmers, fisherfolks, homeless families, IPs, informal settlers, and those in GIDA, provided they meet the following set of criteria:

- Classified as poor or near-poor based on the Standardized Target System and the poverty threshold issued by the Philippine Statistics Authority at the time of selection;
- Have household members aged 0 to 18 years or pregnant at registration;
- Willing to comply with the conditions outlined in the law. These conditions are as follows:
  - Pregnant women must avail of prenatal services, give birth in a health facility attended by a skilled health professional, and receive post-partum and post-natal care for the newborn.
  - Children 0 to 5 years must receive regular preventive health and nutrition services, including checkups and vaccinations.
  - Children 1 to 14 years old must use deworming pills at least twice a year.
  - Children 3 to 4 years must attend daycare or preschool classes at least 85 per cent of the time.
  - Children 5 to 18 must attend elementary or secondary classes at least 85 per cent of the time.
  - At least one responsible person must attend family development sessions conducted by the DSWD at least once a month.

The National Health Insurance Program shall automatically cover beneficiaries. Furthermore, they shall be given priority in availing of DSWD's Sustainable Livelihood Program and its employment facilitation services.

Aside from the National Advisory Council, an Independent Monitoring Committee shall be created at the regional and national levels composed of the private sector and civil society organizations to complement the monitoring activities of the DSWD and provide feedback for appropriate action. In addition, a Joint Oversight Committee in the legislature shall be comprised of 14 members, with the chairs of the Congressional Committee on Poverty Alleviation, Social Justice, and Welfare and Rural Development of the Senate as co-chairpersons and six members from each house.

## Presidential Decree No. 1096 (National Building Code of the Philippines)

The National Building Code primarily focuses on establishing minimum standards for building construction, safety, and structural integrity. While it may not explicitly address climate change in detail, aspects related to environmental considerations, energy efficiency, and sustainable building practices are integrated in the Code. To supplement this, the Philippine Green Building Code aims to set building regulations and minimum standards to enhance environmental and resource management and counter the effects of climate change. It sets green building requirements regarding performance standards, energy efficiency, water efficiency, material sustainability, solid waste management, site sustainability, and indoor environmental quality.

The Department of Public Works and Highways, through the National Building Code Development Office, is mandated to review the code every three years. The Office shall serve as the centre for developing and promoting green buildings, the repository of resource materials on green buildings, and the base for green building training.

## Recommendations

For social protection and welfare, below are some recommendations for consideration:

- Revisit the 4Ps Act with the aim to introduce incentives for households to prioritize living in safe zones or setting up housing that can withstand natural and human-induced disasters.
- Enact legislation guaranteeing a universal social protection floor to include housing.
- Revisit Republic Act No. 6972 (*Barangay-Level Total Development and Protection of Children Act*) to look into not just children's protection and welfare but empowering women to participate in *barangay*-level policy and planning processes, especially in the context of disaster and climate change.
- Fast-track the formulation of the implementing rules and regulations for the Free Legal Assistance Act of 2010. Include provisions that will ensure non-discrimination and affirmative actions for women and other marginalized individuals such as IPs and rural and urban poor, among others, to have access to justice, consistent with the CEDAW Committee's GR 33 and GR 37.

## PART 5.

# Role of the Judiciary

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The judiciary is instrumental in enforcing gender equality principles and standards under international human rights law, as well as the commitments made by the Philippines on the environment and climate change. Judicial protections are provided by both the formal courts, as well as customary and informal justice systems, albeit with varying degrees of jurisdiction. In particular, the Supreme Court of the Philippines has played an active role in the development and enforcement of standards at the intersection of gender equality and climate, as evidenced by the case studies selected below.

### **Oposa v. Factoran** (G.R. No. 101083, 30 July 1993)

*In Oposa v. Factoran, minors, asserting standing, successfully challenged the Secretary of Environment and Natural Resources, underscoring their unique interest in environmental issues that directly impact their generation and those yet unborn.*

The petitioners were all minors, represented by their parents. They filed a civil case (Civil Case No. 90-777) in 1990 against then DENR Secretary Fulgencio S. Factoran, Jr. Their petition called for the cancellation of all existing timber license agreements (TLAs) in the country and cessation of receiving, accepting, processing, renewing, or approving of new TLAs. They alleged that the defendant had granted TLAs to various corporations to cut an aggregate area of 3.89 million hectares for commercial logging purposes. This, they argued, would result in “adverse effects, disastrous consequences, serious injury and irreparable damage” to the plaintiff’s generation and “to generations yet unborn.” The refusal of the defendant to cancel the existing TLAs, according to the plaintiffs, was detrimental to their interests and contrary to public policy on the environmental protection.

The defendant argued that the plaintiffs lacked cause of action against him, and that the issue raised was a

political question, better suited for resolution by the legislative or executive branches of the government. Consequently, the defendant filed a Motion to Dismiss in June 1990. In July 1991, the judge issued an order granting the motion, affirming the defendant’s claims, and further ruling that giving the relief prayed for by the petitioners would result in the impairment of contracts, which is prohibited by law.

The decision made by the Supreme Court on 30 July 1993 underscored that TLAs may be revoked or rescinded by executive action. TLAs do not constitute contracts and their holders are not entitled to them as a matter of right; therefore, the non-impairment clause cannot be invoked. Furthermore, it emphasized that the non-impairment clause must yield to the police power of the State. The petition was granted and challenged the order issued in July 1991, dismissing Civil Case No. 99-777. However, the Supreme Court ordered the petitioners to amend their complaint against the holders or grantees of the questioned TLAs.

### **Writ of Kalikasan (2010)**

*In response to challenges in prosecuting ecology-related crimes and addressing court backlogs in environmental cases, the Supreme Court introduced the Rules of Procedure for Environmental Cases, known as the Writ of Kalikasan, on 13 April 2010. It empowers citizens to seek relief for ecological damages, setting procedures and remedies to enforce environmental rights and laws.*

In 2009, a forum led by the Supreme Court surfaced the difficulties in prosecuting ecology-related crimes and court backlogs on environmental cases. On 13 April 2010, AM No. 09-6-8-SC, Rules of Procedure for Environmental Cases, also known as the Writ of Kalikasan (*Kalikasan* is Filipino for “nature”), was approved and issued.

These rules cover procedures in civil, criminal, and special civil actions before the regional, metropolitan, and municipal trial courts, covering more than 20



Justice Maria Filomena D. Singh ©IDLO

environmental laws. Their primary aim is to protect the constitutional right of people to a balanced and healthful ecology as enshrined in Section 16, Article II of the 1987 Philippine Constitution; to provide simplified, speedy and inexpensive procedures for the enforcement of environmental rights and laws; and to enable the courts to monitor and exact compliance with orders and judgments in environmental cases. The Writ of Kalikasan can be sought to deal with ecological damages that have an impact on the life, health, or property of inhabitants in two or more cities or provinces.

Under this writ, allowable pleadings and motions encompass complaints, answers, which may include compulsory counterclaim and crossclaim, motions for intervention, motions for discovery, and motions for reconsideration of the judgment. Motions for postponement, a new trial, and a petition for relief from judgment shall only be allowed in highly meritorious cases or to prevent a manifest miscarriage of justice. Motions to dismiss the complaint, motions for a bill of particulars, motions for extension of time to file pleadings (except to file an answer, not to exceed 15 days), move to declare the defendant in default, reply, and rejoinder, and third-party complaint are prohibited. Citizen suits may be filed under the writ. Parties are allowed to file a verified motion to execute an ocular inspection and production or inspection of documents or things to establish the magnitude of the violation or threat to life, health, or property of inhabitants in two or more cities or provinces.

Section 8 of the writ indicates that the issuance of a Temporary Environmental Protection Order (TEPO) in cases of “extreme urgency where the applicant will suffer grave injustice and irreparable injury,” is effective only for 72 hours from the date of the receipt of the TEPO by the party or person enjoined. The court shall conduct a summary hearing to determine if the TEPO may be extended until the termination of the case. It shall also periodically monitor the existence of acts that are the subject matter of the TEPO. The applicant is also exempted from posting a body to issue a TEPO. Only the Supreme Court can issue a temporary restraining order and writ of preliminary injunction against lawful actions of government agencies that enforce environmental laws or prevent their violations.

Under Rule 5, Judgment and Execution, the court may grant the plaintiff proper reliefs to include the protection, presentation, or rehabilitation of the environment and the payment of attorney’s fees, among other expenses. It may also require the violator to submit a programme of repair or restoration of the environment, costs of which will be borne by the violator, or to contribute to a special trust fund for that purpose, subject to the court’s control. The court may also convert the TEPO into a permanent EPO or issue a writ of continuing mandamus when an agency or instrumentality of the government or officer unlawfully neglects environmental laws, rules, or regulations. It may also monitor the execution of the judgment and require the party concerned to submit written reports detailing the execution and satisfaction of the

sentence. The process of execution shall terminate upon showing that the decision or order has been implemented to the satisfaction of the court.

There are also procedures for handling Strategic Lawsuits Against Public Participation filed against a person involved in enforcing environmental laws, protecting the environment, or asserting environmental rights. The Strategic Lawsuits Against Public Participation is a legal action filed to harass, vex, exert undue pressure, or stifle any legal resource against any person, institution, or government involved in enforcing environmental laws.

In July 2023, the Writ of Kalikasan was issued in a petition of residents of Sibuyan Island in Romblon against the DENR, Mines and Geosciences Bureau and Altai Philippines Mining Corporation. The petition was due to the fear of Sibuyan residents that the extraction of nickel ore would damage the island and affect the livelihood of locals. Two parcels of land in *Barangays Espana and Taclobo* in San Fernando town in Sibuyan will be mined by the corporation under its MPSA.

### **Metropolitan Manila Bay Development Authority v. Concerned Residents of Manila Bay (G.R. No. 171947-48, 15 February 2011)**

*The Supreme Court issued a continuing mandamus directing the Metro Manila Bay Development Authority to clean up Manila Bay. The Court reaffirmed its continuing jurisdiction, emphasizing the ongoing need for reports as sanctioned by the Writ of Kalikasan to ensure the full execution of the judgment.*

On 18 December 2008, the Supreme Court ordered the petitioners<sup>93</sup> to clean up, rehabilitate and preserve Manila Bay and restore and maintain its waters to SB level (Class B Sea waters per Water Classification Tables under DENR Administrative Order No. 34), given their respective mandates. The petitioners filed no motions for reconsideration, and the decision became final in January 2009. The Manila Bay Advisory Committee was created to receive and evaluate the quarterly progress reports on the activities undertaken by the agencies in compliance with the decision, as well as monitor its execution. The committee recommended that timeframes be set in the execution of the decision.

However, this was viewed as an encroachment over the powers and functions of the Executive Branch. Aside from this, the committee faced challenges such as the submission of voluminous reports lacking uniformity in reporting on cleanup, rehabilitation, and preservation activities; changes in leadership at the national and local levels; and difficulties encountered by some agencies in complying with the Court's directives.

The Court reiterated that the submission of reports is sanctioned by Sections 7 and 8, Rule 8 of the Writ of Kalikasan. The writ in continuing mandamus issued in 2008 means that until petitioner agencies have shown full compliance with the Court's orders, the Court exercises continuing jurisdiction over them until full execution of the judgment. As recommended by the Manila Bay Advisory Committee, the Court further ordered several actions, including the submission of quarterly reports by all agencies involved.

### **Segovia et. Al v. Climate Change Commission (G.R. No. 211010, 7 March 2017)**

*In this case, Petitioners sought the Writs of Kalikasan and Continuing Mandamus to compel the implementation of environmental laws and measures for road sharing and public transportation. The Supreme Court, however, dismissed the petition, citing a lack of evidence showing respondents' violation of environmental laws causing bad air quality. The Court highlighted ongoing programmes to improve air quality, emphasizing that the petitioners failed to prove direct injury and that their demands lacked legal basis, particularly regarding the release of the Road Users' Tax.*

Segovia et al., representing car owners who prefer dependable public transportation over owning, filed a petition for the Writs of Kalikasan and Continuing Mandamus. Their aim was to compel the implementation of the Climate Change Act of 2009 and the Philippines Clean Air Act of 1999, among other executive issuances, as well as the various measures for road sharing, reduction of fuel consumption and use of public transportation.

The Supreme Court dismissed the petition because the petitioners failed to demonstrate that respondents violated or neglected environmental laws contributing to bad air quality. According to the National Air Quality

Status Report for 2005-2007, the National Ambient Total Suspended Particulates value has steadily declined from 2004 to 2007, albeit still exceeding the air quality guideline value. Additionally, there was also no indication that the respondents unlawfully refused to implement or neglected the laws. The Supreme Court specified the various programmes and projects jointly undertaken by the respondents and stakeholders aimed at improving air quality, such as prioritising expenditures for climate change adaptation and mitigation; implementing Integrated Transport System to decongest major thoroughfares; introducing initiatives like Truck Ban, Anti-Smoke Belching Campaign, AntiColorum, Mobile Bike Service Programmes and Urban ReGreening Programmes. Moreover, the Court ruled that the writ of continuing mandamus could not be issued since the petitioners failed to prove direct or personal injury from acts attributable to the respondents. The Supreme Court also underscored that the petition seeking to implement the Road Sharing Principle was discretionary rather than a ministerial act. Additionally, the petitioners' demand for immediate and unilateral release of the Road Users' Tax by the DBM to support the petitioners' operationalization of the Road Sharing Principle lacked legal basis. The executive issuances related to the Road Users' Tax did not rise to the level of law that could compel the approval of the Road Board for the use of the monies in the trust fund.

## National Inquiry on Climate Change (2018)

*The Philippine Commission on Human Rights (PCHR) initiated a groundbreaking inquiry in response to a petition on human rights impact of climate change and the accountability of "Carbon Majors". Findings revealed adverse impacts on vulnerable groups and identified quantifiable contributions by "Carbon Majors". As a result, the investigation prompted comprehensive recommendations, urging legislative, judicial, and corporate actions for effective climate response, including a proposed singular climate code.<sup>94</sup>*

In 2015, the PCHR, the national human rights institution (NHRI) of the Philippines, received a petition<sup>95</sup> to inquire about the impact of climate change on Filipinos and the role of the "Carbon Majors".<sup>96</sup> This marked the second petition globally framing climate

change as a human rights issue and the first to be accepted by a NHRI for investigation. The petition highlighted that private enterprises have an obligation to uphold human rights as advocated under the UN Guiding Principles on Business and Human Rights, and that they should be held responsible for their negative contributions to the environment and climate change that have an impact on the Filipino people.

The "Carbon Majors" argued that the NHRI is not a court of law; hence, it has no jurisdiction to conduct such hearings, let alone to consider the subject of climate as the NHRI is only allowed to investigate civil and political rights cases.

They also argued the issue of territoriality, considering that they do not operate within the territory of the Philippines.

The PCHR underscored that its jurisdiction extends beyond the power to render binding decisions and encompasses the authority to perform other non-judicial constitutional mandates. As such, considering the principles of human rights—interrelatedness, interdependence, and indivisibility—the NHRI is well within its mandate to investigate the human rights violations outlined in the petition. Although it does not exercise adjudicative or enforcement jurisdiction, the NHRI fulfils its mandate to promote and protect human rights.

The inquiry process was intended to be "dialogical rather than adversarial".<sup>97</sup> The PCHR issued invitations, instead of summons, to enable the parties to dialogue on climate change. Recognizing the global dimension of climate change, the PCHR involved stakeholders from around the globe to participate, both online and in-person. International experts, witnesses, academics, and coalitions of human rights institutions and international development agencies supported the inquiry. It provided an opportunity for the "Carbon Majors" to explain their side and collaborate towards a mutual resolution to address climate change.

The PCHR found that the adverse impacts of climate change on the lives of the Filipino people and across the globe were primarily brought about by the "Carbon Majors". The findings underscored that climate change as a grave and urgent human rights concern. Notably, the inquiry highlighted the disproportionate impacts

of climate change on Filipino women, particularly in agricultural production, climate-induced migration, and post-disaster gender-based violence. Rural women, in particular, face severe impacts as they have fewer assets to fall back on in case of crop failure due to extreme weather events. Rural women often fall into chronic indebtedness to bridge resource gap and prioritize the food needs of other family members over their own. Additionally, the PCHR identified impacts on children, IPs, older persons, impoverished people, and people with diverse sexual orientations, gender identities and expressions.

The findings also revealed that the “Carbon Majors” contributions to climate change are both quantifiable and substantial. Carbon dioxide concentrations, primarily from fossil fuel emissions, have increased by 40 per cent since pre-industrial times, and about 30 per cent of such was absorbed by the ocean, causing ocean acidification. Reports also show that from 1750 to 2011, carbon dioxide emissions from fossil fuel combustion and cement production have released 375 [345 to 405] gigatons of carbon into the atmosphere. Moreover, the “Carbon Majors” had early awareness, notice, and knowledge of their adverse impacts on the environment and climate system as early as the 1930s. They were also party to measures that convinced the public that using their products would not lead to significant harm. Additionally, they have funded electoral campaigns of politicians to slow down the global transition towards clean and renewable energy. With this, the “Carbon Majors” are responsible for undertaking human rights due diligence and implementing remedies.

In the light of these facts, the PCHR provided recommendations to governments; the “Carbon Majors” and other carbon-intensive industries; financial institutions and investors; United Nations; National Human Rights Institutions; courts; non-governmental organizations, civil society organizations, legal professionals, and the global citizenry. In particular, the PCHR recommended that the courts pursue the progressive interpretation of laws to enhance regulation and address gaps in the law. It also called for enforcing the State’s international obligations and granting remedies not expressly provided by laws, as shown by the Philippines’ Writ of Kalikasan. In general, the PCHR urged the courts to serve as vehicles for

achieving social change, i.e., guiding the parties and future actions such as rights and obligations of parties towards meaningful climate response.

The PCHR recommended that the legislature enact laws that mandate business compliance with the UN Guiding Principles on Business and Human Rights and other human rights treaties and instruments. It also called for the amendment of the Climate Change Act of 2009, the Philippine Disaster Risk Reduction and Management Act of 2010, and other regulations to create a singular climate code. The additions to this proposed code would be as follows:

- A legally binding GHG emissions reduction target concerning the NDCs;
- A five-year carbon budget or statutory cap on GHG emissions to meet reduction targets;
- Incentive mechanisms to achieve reduction targets, including tax breaks and subsidies for transitioning to a zero-carbon economy;
- Fossil fuel exploration and coal plant moratorium;
- Carbon footprint due diligence and reporting requirements for all public and private enterprises;
- Annual government review of emission reductions and energy supply decarbonization commitment compliance;
- Strengthening of disaster risk and climate change mitigation efforts (as opposed to the current emphasis on post-disaster relief and short-term preparedness);
- Provisions on post-disaster support for economic recovery;
- Redress mechanisms for victims of climate change impacts, including compensation for all forms of harm, including human rights harm;
- A mandate for corporate contributions to a climate fund, which shall be apportioned equally to mitigation, adaptation, post-disaster recovery, and victim compensation;
- A percentage tax on carbon fuel profits after company taxes to fund climate education; and
- Penal provisions for non-compliance with any requirements of the Code.

## PART 6.

# Observations, Recommendations, and Conclusion

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The Philippines has made important commitments at the international and regional levels relating to gender equality and climate change, and has accordingly enacted and implemented numerous domestic laws operating at this nexus. This analysis has reviewed 53 laws governing key, and often interrelated issues, such as the management of land and natural resources, women's participation and leadership, environmental protection, climate change response, disaster risk reduction and response, prevention of gender-based violence, and ensuring adequate social protection and welfare for the people of the Philippines.

Analysis of these laws, however, reveals that much remains to be done to ensure effective integration of gender into responses to the climate crisis. Several laws on climate, the environment, land and natural resources adopted before the passage of the Magna Carta of Women in 2009 did not consider gender equality or women's issues. Further, while discriminatory and gender-blind provisions persist in many areas, the legislation on key issues such as GBV, social protection, and welfare has not adequately considered the potential impact of disasters and climate change and their disproportionate effect on women and girls.

In particular, the following observations arise from the review:

- Land-related laws have progressed over time, recognizing women's land ownership. However, assumptions that males are heads of households remain. De facto practices, such as inheritance customs in rural areas where women often receive non-land assets; women's lack of information, legal support, and resources to apply for a CLOA; or the lack of government consideration of women's domestic or reproductive roles in the procedures and systems for the application of CLOA are some of the reasons behind the low number of women acquiring land and property.
- Land laws position women and marginalized groups as mere beneficiaries rather than active participants in decision-making mechanisms and processes.
- Among land and natural resources laws reviewed, there is no specific provision for women's access to affordable or free legal services, official documents, land registration documents, and deeds. In disputes concerning land, property and other resources, the *barangay* (basic political unit)<sup>98</sup> has limitations in settling such issues due to its mandate, thus putting land conflict issues at risk of escalation.
- Laws on participation and leadership have provisions for women's representation but their meaningful engagement is still lacking. None of the reviewed laws under this category address the need for social support services to enable women's participation in public life.
- Several laws impose penalties for violations related to climate and the environment, emphasizing the need for transparency and accountability among state actors and the private sector. However, these laws do not address the inclusion of women and other marginalized groups in policy and program development processes. Some climate and environment laws fail to capitalize on opportunities, such as engaging the majority of women in micro-, small and medium enterprises to contribute to the implementation of the EPR or the allocation of resources to address women's safety and security in the context of mobility.
- While some legislation on DRRM requires the collection and analysis of data, these laws lack provisions requiring data disaggregation by sex, gender, age, disability, and ethnicity, among other key factors.

- Gender analysis appears to be limited to early recovery and post-disaster phases rather than the entire disaster risk management cycle, which begins from prevention and mitigation and progresses to preparedness, response, rehabilitation, and finally, reconstruction. At the local level, the GAD head serves as the equivalent of the PCW. However, there is no nationwide survey or audit to assess whether local governments have such offices or if the GAD Focal Point is represented and meaningfully participating in LDRRMC. Despite a mandatory allocation of five per cent of local budgets for DRRM, the severity and frequency of natural and human-induced disasters necessitate a recalibration of the allocation, with increased funds from national sources, particularly for poorer municipalities, such as the fifth- and sixth-class municipalities.
- With the exception of the Safe Spaces Act, none of the reviewed laws on GBV have considered its nexus in the context of climate-related and human-induced emergencies or land and natural resources issues; there is still a siloed approach to addressing GBV.
- With the exception to the Nation Health Insurance Act of 2013 and the Expanded Senior Citizen Act of 2003, none of the examined laws on social protection and welfare explicitly considered the impact of environmental hazards, disaster, and climate change on the provision of social protection and welfare benefits.
- Affirmative actions are also required for other marginalized individuals, such as PWD, who should be prioritised as beneficiaries of post-disaster social protection and welfare benefits.
- Social security appears to lack coverage for prolonged exposure to environmental hazards or hazardous chemicals and elements, as well as it does not impose liabilities and obligations on employers. Although there is an existing compensation benefit for work-related disability or death, it only covers formal workers.
- Housing is not covered by conditional cash transfers. The existing law also does not mandate the establishment of safe housing as part of its conditionalities. While it is indeed costly to include housing to be part of the transfers, there appears

to be no incentive for households to ensure that they live in safe zones or set up housing that can withstand natural and human-induced disasters or consider environmental safety.

## Recommendations

To address these gaps, multi-sectoral collaboration and the targeted law reform are needed. Below is a recapitulation of the major recommendations for reform in the key focus areas of this analysis:

- Maximize the role of Congressional and Senate Committees on Environment, Natural Resources and Climate Change; Ecology; Poverty Alleviation, Social Justice, Welfare and Rural Development; and Women, to exercise oversight powers in the implementation of climate and environment laws and seek its nexus with DRRM, women, GBV, land and natural resources, and social protection and welfare.

On the Magna Carta of Women:

- Fulfil the mandates outlined in the Magna Carta of Women, ensuring protection from GBV, especially in the context of displacement due to natural and human-induced disasters and participation of women in development councils and planning processes for disaster risk reduction and climate change adaptation.
- Fast-track the passage of the law protecting women and girls against violence and discrimination based on sexual orientation and gender identity choices, including LGBTQI individuals that face discrimination during post-disaster relief, recovery, and rehabilitation.

On land and natural resources laws:

- Fast-track the formulation of the implementing rules and regulations for the Free Legal Assistance Act of 2010. Include provisions that ensure non-discrimination and affirmative actions for women and other marginalized individuals, such as IPs, rural and urban poor, among others, to have access to justice, consistent with the CEDAW Committee's General Recommendation No. 33 on women's access to justice (GR 33) and GR 37.

- Enact legislation to secure the FPIC of women not only for projects affecting ICCs but also for those affecting women, including in the areas of agriculture, fisheries, forestry, and extractive industries, consistent with Human Rights Council Expert Mechanism Advice No. 11 (2018) on IPs and FPIC.<sup>99</sup> Ensure through law and regulations that the FPIC especially of women is secured across project development processes, not just in the formulation or design phase. This includes documentation, monitoring, and evaluation across all processes. A guarantee must exist that agreements among affected communities contain provisions for grievance and redress, as well as provision on royalties and benefit-sharing schemes. Quotas must be established for women in community consultations in line with the FPIC processes.

On laws governing women's participation and leadership:

- Enact legislation on local sectoral representation under the Local Government Code of 1991, ensuring equitable representation of women and other marginalized groups such as IPs, rural women, and youth, among others, especially those coming from disaster-prone and GIDA in local legislature.
- Revisit the Party-List System Act and the 2001 Supreme Court decision that upholds the representation of marginalized and underrepresented sectors, such as women, IPs, rural women, and youth, among others, and their participation in the national legislature under the party-list system.
- Enhance implementing rules and regulations of the Philippine Disaster Risk Reduction and Management Act of 2010 to secure one seat for women's organizations in the LDRRMC, in addition to the representation of gender and development focal points.
- Revisit the *Barangay*-level Total Development and Protection of Children Act to expand its focus beyond children's protection and welfare. The law should empower women to participate in *barangay*-level policy and planning processes, especially in the context of disaster and climate change.

On climate and environmental laws:

- Revisit the Philippine Clean Air Act of 1999, Ecological Solid Waste Management Act of 2000, Philippine Clean Water Act of 2004, Energy Efficiency and Conservation Act, and the Extended Producer Responsibility Act of 2022 to underscore the role of women and other marginalized individuals or groups in these laws.
- Institutionalize the creation of a climate change mitigation and adaptation mechanism at the local level, similar to the CCC, that will coordinate the climate actions and support the formulation of proposals to the PSF, among others. This mechanism should be inextricably linked with the LDRRMC, ensuring representation from women and other marginalized sectors and government stakeholders.
- Establish and institutionalize a dedicated accountability mechanism for climate and environmental justice, similar to the work undertaken by the national human rights institution in the National Inquiry on Climate Change. Such a mechanism will focus on accounting for violations and omissions of both State and non-State (especially companies and businesses) actors regarding the impact of climate change and environmental disasters on women and other marginalized individuals.
- Revisit the Local Government Code of 1991 to take a more intersectoral approach in addressing climate change's gendered concerns and effects across its standing committees on appropriations, women and family, human rights, youth, environmental protection, and cooperatives.
- Revisit the Philippine Green Jobs Act of 2016 to include women's participation as one of the standards for defining green jobs and provide incentives for companies and businesses that employ a certain percentage of women in such jobs.

On laws governing DRRM:

- Enact legislation to safeguard the rights of the IDP. The compounding challenges posed by natural and human-induced disasters in the Philippines necessitate the adoption of a comprehensive national legal framework aligned with the Guiding

Principles on Internal Displacement.

- Revisit the Philippine Disaster Risk Reduction and Management Act of 2010 to institutionalize gender analysis throughout the entire disaster risk management cycle. Reconsider the five per cent budget allocation set aside by local governments for DRRM to be augmented by the national government for climate change mitigation and adaptation efforts, particularly focusing on poorer municipalities, such as the fifth and sixth class.

On laws governing protection from GBV:

- Implement effective monitoring measures to ensure that cases of GBV are not mediated or conciliated at the local government level, including by *barangay* officials, in accordance with the Anti-VAWC Act of 2004.
- Revise the definition of rape within The Anti-Rape Law of 1997 to prioritize the absence of consent as the central element, eliminating the requirement for corroborating evidence of the perpetrator using threats, intimidation, force, fraudulent machinations or grave abuses of authority in order to establish rape. Additionally, incorporate a list of presumptions where consent cannot be considered to be freely given, such as when a victim is unconscious or unable to give consent because of a disability.
- Revise the Anti-VAWC Act to ensure the law is responsive to the special needs of women and children during emergencies. The law should make accessible sexual and gender-based violence services, including protection orders, even in complex situations such as climate disasters.
- Revise the Anti-Trafficking in Persons Act of 2003 to standardize guidelines on the systematic collection of data on GBV in trafficking cases, as per the previous recommendations of the CEDAW Committee to the Philippines.
- Ratify the Convention for the Protection of All Persons from Enforced Disappearance, given the heightened risks and increasing threats faced by land and environmental rights defenders, particularly women, in the recent years.

- Assess the effectiveness of the *Barangay* VAW Desks in situations of climate crisis, particularly regarding the response to the needs of GBV survivors.
- Enact legislation establishing a national preventive mechanism against torture, consistent with the OPCAT. Establish an independent body to conduct prompt, impartial, thorough and transparent investigations into all killings, including those related to land and environmental rights defenders, as well as alleged violations of international humanitarian law. These efforts should be aimed at prosecution and the provision of remedies for victims and their families, consistent with recommendations of the Human Rights Council.
- Establish and institutionalize a dedicated accountability mechanism for climate and environmental justice, similar to the work undertaken by the Commission on Human Rights in the National Inquiry on Climate Change. This mechanism will be specifically designed to address violations and omissions of both State and non-State (especially companies and businesses) actors on the impact of climate change and environmental disasters on women, and other marginalized individuals.
- Enact legislation on transitional justice encompassing not only reparations but also responses to all types of atrocities and systemic abuses on women and marginalized communities. Ensure full reparation for human rights violations, recognizing the nexus of land, natural resources, environment-related violations, and GBV.
- Revise Safe Spaces Law to provide guidelines on community service as a penalty.

On laws governing social protection and welfare:

- Revisit the *Barangay*-Level Total Development and Protection of Children Act to look into not just children's protection and welfare but also empower women to participate in *barangay*-level policy and planning processes, especially in the context of disaster and climate change.
- Fast-track the formulation of the implementing rules and regulations for Republic Act No. 9999 or the

Free Legal Assistance Act of 2010. Include provisions that will ensure non-discrimination and affirmative actions for women and other marginalized individuals, such as IPs and rural and urban poor, among others, to have access to justice, consistent with the CEDAW Committee's GR 33 and GR 37.

- Revisit the 4Ps Act with the aim to introducing incentives for households to prioritize living in safe zones or setting up housing that can withstand natural and human-induced disasters.
- Enact legislation guaranteeing a universal social protection floor to include housing.

Implementing these reforms can facilitate the development of robust, comprehensive and gender-responsive legal frameworks on climate and the environment, increase women's participation and leadership across numerous sectors, and advance gender equality in climate action across the Philippines.

# Annexes

## ANNEX 1:

# Ratification of Global Gender Equality and Human Rights Instruments by the Philippines

The Philippines ratified almost all the international human rights treaties except the Convention for the Protection of All Persons from Enforced Disappearance.

Instrument	Date of ratification/accesion
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	18 June 1986 (a)
Optional Protocol	17 April 2012 (a)
International Covenant on Civil and Political Rights	23 October 1986
2nd Optional Protocol, aiming at the abolition of the death penalty	20 November 2007
Convention on the Elimination of All Forms of Discrimination against Women	5 August 1981
International Convention on the Elimination of All Forms of Racial Discrimination	15 September 1967
International Covenant on Economic, Social and Cultural Rights	07 June 1974
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	05 July 1995
Convention on the Rights of the Child	21 August 1990
Optional Protocol on the Involvement of children in armed conflict	26 August 2003
Optional Protocol on the sale of children, child prostitution and child pornography	28 May 2002
Convention on the Rights of Persons with Disabilities	15 April 2008

## ANNEX 2:

# Ratification of Global Climate and Environment Instruments by the Philippines

Instrument	Date of ratification/accession
Vienna Convention for the Protection of the Ozone Layer	17 July 1991 (a)
Convention on Biological Diversity	08 October 1993
UN Framework Convention on Climate Change	02 August 1994
Ramsar Convention (Convention on Wetlands of International Importance)	8 November 1994
UN Convention to Combat Desertification	10 February 2000
Hyogo Framework for Action, 2005-2015	22 January 2005
Cartagena Protocol on Biosafety	03 January 2007
Kyoto Protocol	20 November 2003
Sendai Framework for Disaster Risk Reduction, 2015-2030	18 March 2015
Nagoya Protocol on Access and Benefit Sharing	28 December 2015
Paris Agreement	23 March 2017

## ANNEX 3:

# Chronology of Philippine Laws on Gender, Land, Climate and Environment, and Disaster Risk Reduction and Management

Year	Title of the law	Category
1902	Act No. 496 (The Land Registration Act), amended by Presidential Decree No. 1529 (Property Registration Decree)	Land and natural resources
1936	Commonwealth Act No. 141 (The Public Land Act), amended by Republic Act No. 11231 (Agricultural Free Patent Reform Act) and further amended by Republic Act No. 11573 (An Act Improving the Confirmation Process for Imperfect Land Titles)	Land and natural resources
1975	Presidential Decree No. 705 (Revised Forestry Code of the Philippines)	Land and natural resources
1978	Presidential Decree No. 1529 (Property Registration Decree), amended by Republic Act No. 11573 (An Act Improving the Confirmation Process for Imperfect Land Titles)	Land and natural resources
1987	Philippine Constitution	Landmark law
1988	Republic Act No. 6657 (Comprehensive Agrarian Reform Law of 1988), amended by Republic Act No. 9700 (Comprehensive Agrarian Reform Program with Extensions (CARPER))	Land and natural resources
1990	Republic Act No. 6972 ( <i>Barangay-Level Total Development and Protection of Children Act</i> )	Social protection and welfare
1991	Republic Act No. 7156 (Mini-hydroelectric Power Incentive Act)	Climate and environment
1991	Republic Act No. 7076 (People's Small-scale Mining Act of 1991)	Land and natural resources
1991	Republic Act No. 7160 (Local Government Code of 1991)	Land and natural resources; Participation and leadership; Climate and environment; Disaster risk reduction and management; Gender-based violence
1991	Republic Act No. 7277 (Magna Carta for Disabled Persons), amended by Republic Act No. 10754 (An Act Expanding the Benefits and Privileges of Persons with Disability (PWD))	Social protection and welfare
1992	Republic Act No. 7586 (National Integrated Protected Areas Act of 1992), amended by Republic Act No. 11038 (Expanded National Integrated Protected Areas Systems (NIPAS) Act of 2018)	Land and natural resources
1992	Republic Act No. 7279 (Urban Development and Housing Act of 1992)	Social protection and welfare

Year	Title of the law	Category
1992	Republic Act No. 7432 (An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes), amended by Republic Act No. 9257 (Expanded Senior Citizen Act of 2003) and further amended by Republic Act No. 9994 (Expanded Senior Citizen Act of 2010)	Social protection and welfare
1995	Republic Act No. 7942 (Philippine Mining Act of 1995)	Land and natural resources
1995	Republic Act No. 7941 (Party-List System Act)	Participation and leadership
1995	Republic Act No. 7875 (National Health Insurance Act of 1995), amended by Republic Act No. 10606 (National Health Insurance Act of 2013)	Social protection and welfare
1995	Republic Act No. 8282 (Social Security Act of 1997), amended by Republic Act No. 11199 (Social Security Act of 2018)	Social protection and welfare
1997	Republic Act No. 8435 (The Agriculture and Fisheries Modernization Act of 1997)	Land and natural resources
1997	Republic Act No. 8353 (The Anti-Rape Law of 1997)	Gender-based violence
1997	Republic Act No. 8371 (Indigenous Peoples' Rights Act of 1997)	Land and natural resources; Participation and leadership
1997	Republic Act No. 8425 (Social Reform and Poverty Alleviation Act)	Participation and leadership
1999	Republic Act No. 8749 (Philippines Clean Air Act of 1999)	Climate and environment
2001	Republic Act No. 9003 (Ecological Solid Waste Management Act of 2000), amended by Republic Act No. 11898 (Extended Producer Responsibility Act of 2022)	Climate and environment
2003	Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003), amended by Republic Act No. 10364 (Expanded Anti-Trafficking in Persons Act of 2012)	Gender-based violence
2004	Republic Act No. 9275 (Philippine Clean Water Act of 2004)	Climate and environment
2004	Republic No. 9262 (Anti-Violence Against Women and Their Children Act of 2004)	Gender-based violence
2006	Republic Act No. 9367 (Biofuels Act of 2006), amended by Republic Act No. 10745 (Amended Biofuels Act of 2006)	Climate and environment
2008	Republic Act No. 9512 (National Environmental Awareness and Education Act of 2008)	Climate and environment
2008	Republic Act No. 9513 (Renewable Energy Act of 2008)	Climate and environment
2009	Republic Act No. 9520 (Philippine Cooperative Code of 2008)	Participation and leadership
2009	Republic Act No. 9729 (Climate Change Act of 2009)	Climate and environment
2009	Republic Act No. 9745 (Anti-Torture Act of 2009)	Gender-based violence
2009	Republic Act No. 9700 (Comprehensive Agrarian Reform Program with Extensions (CARPER))	Land and natural resources

Year	Title of the law	Category
2009	Republic Act No. 9710 (The Magna Carta of Women)	Landmark law
2010	Republic Act No. 9999 (Free Legal Assistance Act of 2010)	Social protection and welfare
2010	Republic Act No. 10121 (Philippine Disaster Risk Reduction and Management Act of 2010)	Disaster risk reduction and management
2012	Republic Act No. 10174 (The People's Survival Fund Act)	Climate and environment
2013	Republic Act No. 10368 (Human Rights Victims Reparation and Recognition Act of 2013)	Gender-based violence
2015	The Philippine Green Building Code	Social protection and welfare
2016	Republic Act No. 10771 (Philippine Green Jobs Act of 2016)	Climate and environment
2017	Republic Act No. 11038 (Expanded National Integrated Protected Areas Systems (NIPAS) Act of 2018)	Land and natural resources
2018	Republic Act No. 11313 (Safe Spaces Act)	Gender-based violence
2018	Republic Act No. 11054 (Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao)	Land and natural resources
2018	Republic Act No. 11201 (Department of Human Settlements and Urban Development Act)	Social protection and welfare
2018	Republic Act No. 11223 (Universal Health Care Act)	Social protection and welfare
2018	Republic Act No. 11310 (Pantawid Pamilyang Pilipino Program (4Ps) Act)	Social protection and welfare
2019	Republic Act No. 11285 (Energy Efficiency and Conservation Act)	Climate and environment
2019	Republic Act No. 11231 (Agricultural Free Patent Reform Act)	Land and natural resources
2020	Republic Act No. 11494 (Bayanihan to Recover as One Act)	Climate and environment
2020	Republic Act No. 11573 (An Act Improving the Confirmation Process for Imperfect Land Titles)	Land and natural resources
2021	Republic Act No. 11596 (Prohibition of Child Marriage Law)	Gender-based violence
2022	Republic Act No. 11898 (Extended Producer Responsibility Act of 2022)	Climate and environment

## ANNEX 4:

# Review and Categorization of Philippine Laws on Gender, Land, Climate, Environment, and Disaster Risk Reduction and Management

	Title of the law	Category
1	Republic Act No. 7156 (Mini-Hydroelectric Power Incentive Act)	Climate and environment
2	Republic Act No. 8749 (Philippine Clean Air Act of 1999)	Climate and environment
3	Republic Act No. 9003 (Ecological Solid Waste Management Act of 2000), amended by Republic Act No. 11898 (Extended Producer Responsibility Act of 2022)	Climate and environment
4	Republic Act No. 9275 (Philippine Clean Water Act of 2004)	Climate and environment
5	Republic Act No. 9367 (Biofuels Act of 2006), amended by Republic Act No. 10745 (Amended Biofuels Act of 2006)	Climate and environment
6	Republic Act No. 9512 (National Environmental Awareness and Education Act of 2008)	Climate and environment
7	Republic Act No. 9513 (Renewable Energy Act of 2008)	Climate and environment
8	Republic Act No. 9729 (Climate Change Act of 2009)	Climate and environment
9	Republic Act No. 10174 (The People's Survival Fund Act)	Climate and environment
10	Republic Act No. 10771 (Philippine Green Jobs Act of 2016)	Climate and environment
11	Republic Act No. 11285 (Energy Efficiency and Conservation Act)	Climate and environment
12	Republic Act No. 11494 (Bayanihan to Recover as One Act)	Climate and environment
13	Republic Act No. 11898 (Extended Producer Responsibility Act of 2022)	Climate and environment
14	Republic Act No. 10121 (Philippine Disaster Risk Reduction and Management Act of 2010)	Disaster risk reduction and management
15	Republic Act No. 8353 (The Anti-Rape Law of 1997)	Gender-based violence
16	Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003), amended by Republic Act No. 10364 (Expanded Anti-Trafficking in Persons Act of 2012)	Gender-based violence
17	Republic No. 9262 (Anti-Violence Against Women and Their Children Act of 2004)	Gender-based violence
18	Republic Act No. 9745 (Anti-Torture Act of 2009)	Gender-based violence
19	Republic Act No. 10368 (Human Rights Victims Reparation and Recognition Act of 2013)	Gender-based violence

	Title of the law	Category
20	Republic Act No. 11313 (Safe Spaces Act)	Gender-based violence
21	Republic Act No. 11596 (Prohibition of Child Marriage Law)	Gender-based violence
22	Act No. 496 (The Land Registration Act), amended by Presidential Decree No. 1529 (Property Registration Decree)	Land and natural resources
23	Commonwealth Act No. 141 (The Public Land Act), amended by Republic Act No. 11231 (Agricultural Free Patent Reform Act)	Land and natural resources
	and further amended by Republic Act No. 11573 (Property Registration Decree)	
24	Presidential Decree No. 705 (Revised Forestry Reform Code of the Philippines)	Land and natural resources
25	Presidential Decree No. 1529 (Property Registration Decree), amended by Republic Act No. 11573 (An Act Improving the Confirmation Process for Imperfect Land Titles)	Land and natural resources
26	Republic Act No. 6657 (Comprehensive Agrarian Reform Law of 1988), amended by Republic Act No. 9700 (Comprehensive Reform Program Extension with Reforms (CARPER))	Land and natural resources
27	Republic Act No. 7076 (People's Small-scale Mining Act of 1991)	Land and natural resources
28	Republic Act No. 7586 (National Integrated Protected Areas System Act of 1992), amended by Republic Act No. 11038 (Expanded National Integrated Protected Areas System Act of 2018)	Land and natural resources
29	Republic Act No. 7942 (Philippine Mining Act of 1995)	Land and natural resources
30	Republic Act No. 8435 (Agriculture and Fisheries Modernization Act of 1997)	Land and natural resources
31	Republic Act No. 9700 (Comprehensive Agrarian Reform Program with Extensions (CARPER))	Land and natural resources
32	Republic Act No. 11038 (Expanded National Integrated Protected Areas System Act of 2018)	Land and natural resources
33	Republic Act No. 11054 (Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao)	Land and natural resources
34	Republic Act No. 11231 (Agricultural Free Patent Reform Act)	Land and natural resources
35	Republic Act No. 11573 (An Act Improving the Confirmation Process for Imperfect Land Titles)	Land and natural resources
36	Republic Act No. 7160 (Local Government Code of 1991)	Land and natural resources; Participation and leadership; Climate and environment; Disaster risk reduction and management; Gender-based violence
37	Republic Act No. 8371 (The Indigenous Peoples' Rights Act of 1997)	Land and natural resources; Participation and leadership
38	Philippine Constitution	Landmark law
39	Republic Act No. 9710 (The Magna Carta of Women)	Landmark law

Title of the law		Category
40	Republic Act No. 9741 (Party-List System Act)	Participation and leadership
41	Republic Act No. 8425 (Social Reform and Poverty Alleviation Act)	Participation and leadership
42	Republic Act No. 9520 (Philippine Cooperative Code of 2008)	Participation and leadership
43	Republic Act No. 6972 ( <i>Barangay-Level Total Development and Protection of Children Act</i> )	Social protection and welfare
44	Republic Act No. 7279 (Urban Development and Housing Act of 1992)	Social protection and welfare
45	The Philippine Green Building Code	Social protection and welfare
46	Republic Act No. 11201 (Department of Human Settlements and Urban Development Act)	Social protection and welfare
47	Republic Act No. 7277 (Magna Carta for Disabled Persons), amended by Republic Act No. 10754 (An Act Expanding the Benefits and Privileges of Persons with Disability (PWD))	Social protection and welfare
48	Republic Act No. 7432 (An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits, and Special Privileges and for Other Purposes), amended by Republic Act No. 9257 (Expanded Senior Citizen Act of 2003) and further amended by Republic Act No. 9994 (Expanded Senior Citizen Act of 2010)	Social protection and welfare
49	Republic Act No. 7875 (National Health Insurance Act of 1995), amended by Republic Act No. 10606 (National Health Insurance Act of 2013)	Social protection and welfare
50	Republic Act No. 8282 (Social Security Act of 1997), amended by Republic Act No. 11199 (Social Security Act of 2018)	Social protection and welfare
51	Republic Act No. 9999 (Free Legal Assistance Act of 2010)	Social protection and welfare
52	Republic Act No. 11223 (Universal Health Care Act)	Social protection and welfare
53	Republic Act No. 11310 (Pantawid Pamilyang Pilipino Program (4Ps Act))	Social protection and welfare

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