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MEMORANDUM

TO : **The Directors**
*Policy and Planning Service
*Legal Affairs Service
*Strategic Communications and Initiatives Service
*Gender and Development Office
*Staff Bureaus (BMB, FMB, LMB, ERDB)
*Line Bureaus (EMB, MGB)

The Heads
*Attached Agencies

Regional Executive Directors
Regional Directors (EMB, MGB)

FROM : **The Undersecretary**
Finance, Information Systems and Climate Change, and
Chairperson, National GAD Focal Point System

SUBJECT : **REQUEST FOR COMMENTS ON SALIENT FINDINGS ON
GENDER ASSESSMENT OF CLIMATE-RELATED LEGAL AND
REGULATORY FRAMEWORKS AS PART OF THE IDLO
PROJECT ON “ADVANCING WOMEN’S AND GIRL’S ACTION
FOR CLIMATE JUSTICE THROUGH THE RULE OF LAW”**

DATE : 18 August 2023

This refers to the ongoing project of the DENR, Philippine Commission on Women and the Climate Change Commission, assisted by the International Development Legal Organization (IDLO) titled as “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, develop capacity building activities on gender-transformative climate change action policy and legal frameworks delivered to state institutions, and women organizations in the Philippines. One of the activities under the project is the conduct of gender assessment of climate-related legal and regulatory frameworks.

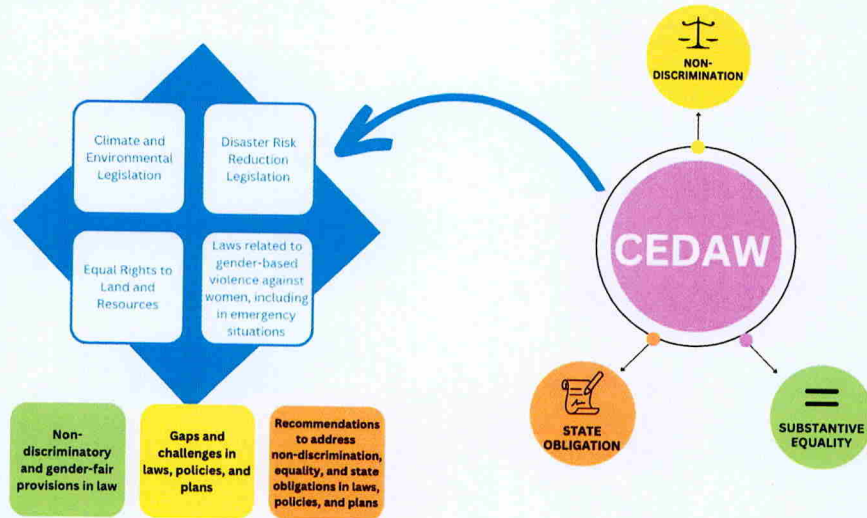
Under this activity, the project has presented as attached its Analytical Framework, Achievements, Key Findings, Recommendations, and the Role of the Judiciary and Quasi-Judicial Bodies to address the gender issues and challenges of climate-related legal and regulatory frameworks..

May we request for your comments and recommendations regarding the attached Salient Findings as contained in the powerpoint presentation, and the Draft Full Report (<https://bit.ly/IDLOGAD>). Please email your comments to the DENR Gender and Development Office, with email address gad_denr@yahoo.com not later than 25 August 2023.

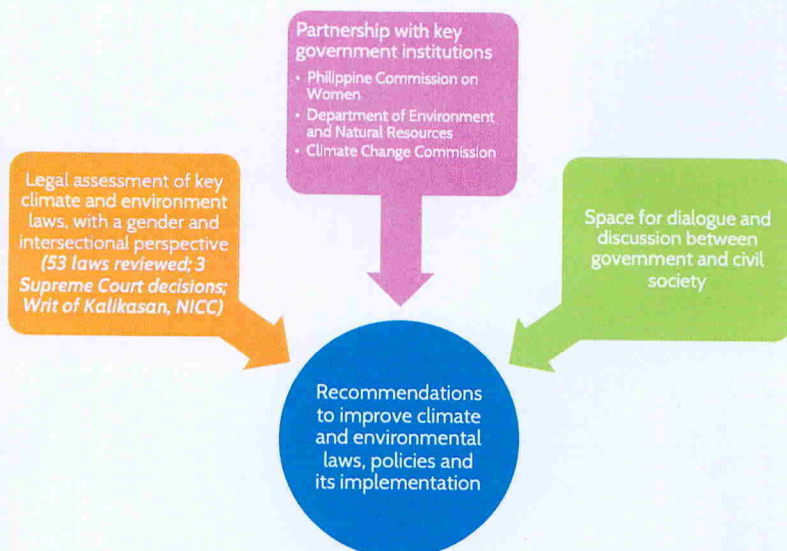
For your compliance.


ATTY. ANALIZA REBUELTA-TEH

Analytical Framework

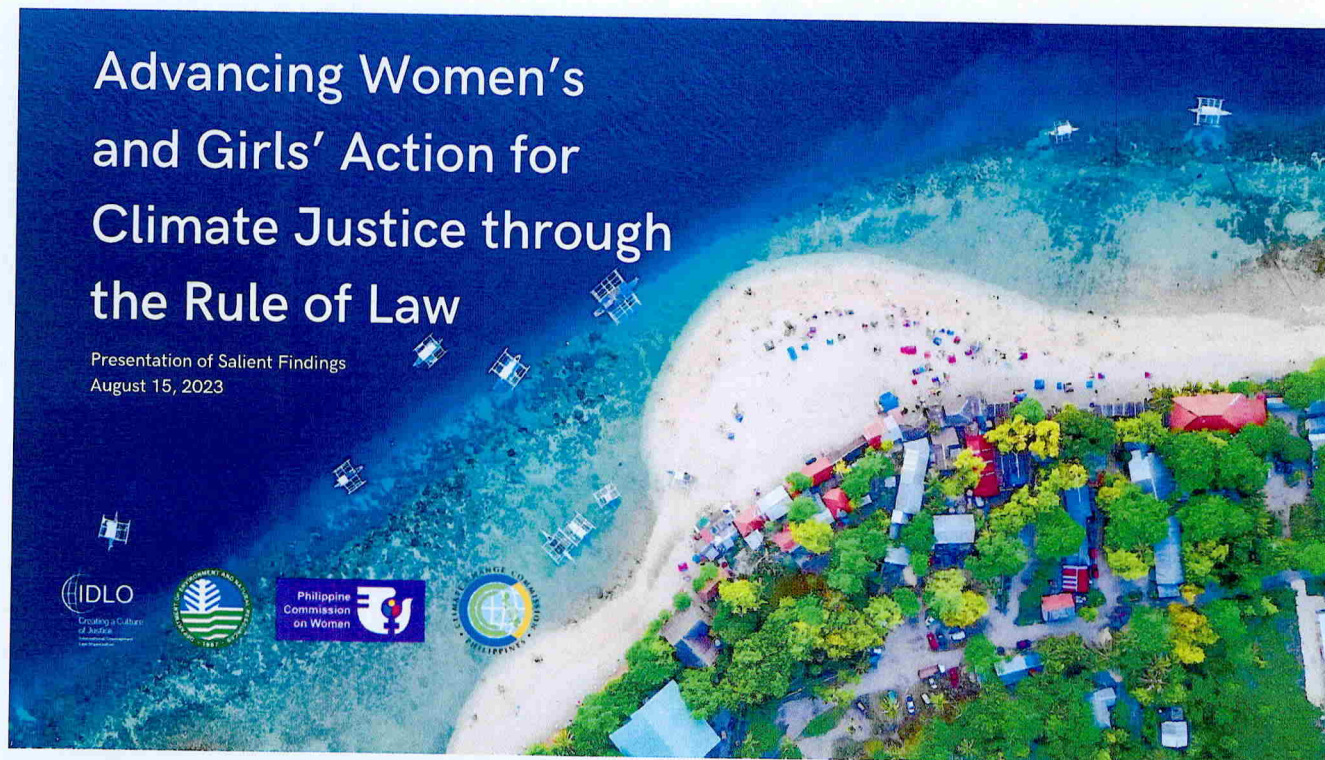


WHAT WE HAVE DONE



Advancing Women's and Girls' Action for Climate Justice through the Rule of Law

Presentation of Salient Findings
August 15, 2023



ADVANCING WOMEN'S AND GIRLS' ACTION FOR CLIMATE JUSTICE
THROUGH THE RULE OF LAW



About the Project

- Strengthened ability of women and girls to promote and protect their environmental rights and shape climate action through the rule of law
- Capacity building activities on gender-transformative climate action policy and legal frameworks delivered to state institutions in the Philippines
- Conduct a gender assessment of climate-related legal and regulatory frameworks

Key Findings

Some climate and environment as well as land and natural resources laws before the passage of the Magna Carta of Women in 2009 were not conscious of gender or women's issues. In the same light, some gender-based violence, social protection, and welfare laws have not considered the potential impact of disasters and climate change.



Key Findings



ON LAND OWNERSHIP

Land-related laws progressed over time, recognizing female ownership; however, assumptions that males are heads of households remain.

ROLE OF WOMEN IN LAND LAWS

Land laws view women and marginalized groups as mere beneficiaries rather than active participants in decision-making mechanisms and processes.

LEGAL ACCESS IN LAND AND NATURAL RESOURCES LAWS

Amongst land and natural resources laws reviewed, there is no specific provision for women's access to affordable, free legal access.

Key Findings



NEED TO MAXIMIZE EXISTING LAWS

There are missed opportunities in some climate and environment laws that could have been maximized for addressing gender considerations.

IMPROVEMENT FOR GENDER CONSIDERATIONS

The Philippine Disaster Risk Reduction and Management Act of 2010 have already indicated gender considerations but still needs improvement.

RECOGNITION OF INTERSECTION WITH GENDER

Except for the Safe Spaces Act, all reviewed laws on gender-based violence have not considered its nexus in the context of climate-related and human-induced emergencies or land and natural resources issues.

Key Findings



CONSIDERATION OF IMPACT OF CLIMATE CHANGE ON SOCIAL WELFARE

Except for the National Health Insurance Law and the Expanded Senior Citizen Act, all of the laws reviewed under social protection and welfare have not explicitly considered the impact of environmental hazards, disasters and climate change on the provision of social protection and welfare benefits.

AFFIRMATIVE ACTION

Affirmative actions are likewise wanting for other marginalized individuals such as persons with disabilities as priority beneficiaries of post-disaster social protection and welfare benefits.

Key Findings



SOCIAL SECURITY AND ENVIRONMENTAL IMPACT

Social security seemingly does not cover prolonged exposure to environmental hazards or hazardous chemicals and elements and exerting liabilities and obligations from employers.

HOUSING

Housing is not covered by conditional cash transfers (CCT) under the Pantawid Pamilyang Pilipino Program (4Ps) Act, or the establishment of safe housing as part of its conditionalities.



Recommendations

- Ratify the Convention for the Protection of All Persons from Enforced Disappearance given the heightened risks and increasing killings among land and environmental rights defenders, especially among women, in the past years.
- Fulfill the mandates outlined in the Magna Carta of Women, ensuring protection from gender-based violence 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 against violence and discrimination on sexual orientation and gender identity (SOGIE) as LGBTQ individuals face discrimination during post-disaster relief, recovery and rehabilitation.



Recommendations

- Fast-track the formulation of the implementing rules and regulations for the Free Legal Assistance Act
- Legislate free, prior, and informed consent (FPIC) not only for projects within indigenous cultural communities and ancestral domains but covering projects in agriculture, fisheries, forestry, and extractive industries in upstream and downstream areas affected by such developments as these impact on the economic and cultural rights of women and other marginalized groups.
- Pass the enabling law on local sectoral representation under the Local Government Code.



Recommendations

- Revisit the Party-List System Act and the 2001 Supreme Court decision that upholds the representation of marginalized and underrepresented sectors such as women, indigenous peoples, rural women, and youth, among others, could participate in the national legislature under the party-list system.
- Enhance implementing rules and regulations of the Philippine Risk Reduction and Management Act to secure one (1) seat for women's organizations in local disaster risk reduction and management councils (LDRRMC), aside from the representation of gender and development focal points.
- Revisit the 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.



Recommendations

- Revisit the Clean Air Act, the Ecological Solid Waste Management Act, the Clean Water Act, the Philippine Energy Efficiency and Conservation Act and the Extended Producer Responsibility Act 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.
- Create and institutionalize a separate accountability mechanism for climate and environmental justice.



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Recommendations

- Revisit the Local Government Code to take a more inter-sectoral 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 to include women's participation as one of the standards for green jobs and provide incentives for companies or businesses that employ a certain percentage of women in such jobs.
- Pass a law to protect the rights of internally displaced populations.



Recommendations

- Revisit the Philippine Disaster Risk Reduction and Management Act of 2010 to institutionalize gender analysis in the entire disaster risk management cycle.
- Pass a law establishing a national preventive mechanism against torture, consistent with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
- Pass a law on transitional justice that covers not just reparations but addresses the more significant transitional justice responses to all types of atrocities and systemic abuses on women and the marginalized (IPs/ ICCs, internally displaced populations or IDPs, etc.). Establishing full reparation for human rights violations, recognizing the nexus of land, natural resources, environment-related violations and gender-based violence.



Recommendations

- Revisit the Pantawid Pamilyang Pilipino Program (4Ps) Act to incentivize households to ensure that they live in safe zones or set up housing that could withstand natural and human-induced disasters.
- Pass a law guaranteeing a universal social protection floor to include housing.
- 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 disaster risk reduction and management, women and gender-based violence, land and natural resources, and social protection and welfare.

The Role of the Judiciary and Quasi-Judicial Bodies

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

The decision made by the Supreme Court on 30 July 1993 underscored that timber license agreements (TLAs) may be revoked or rescinded by executive action. TLAs are not contracts whose 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.

Writ of Kalikasan (2010)

This set of rules intends to primarily protect the constitutional right of people to balanced and healthful ecology as enshrined in Section 16, Article II of the 1987 Philippine Constitution. The writ could be sought to deal with ecological damages that impact the life, health, or property of inhabitants in two or more cities or provinces.

The Role of the Judiciary and Quasi-Judicial Bodies

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

The Court reiterated that the submission of reports is sanctioned by Secs 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.

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

The Supreme Court dismissed the petition because the petitioners have not been able to show that respondents are guilty of violation or neglect of environmental laws that causes or contributes to bad air quality.

The Role of the Judiciary and Quasi-Judicial Bodies

National Inquiry on Climate Change (2018)

In 2015, the Philippine Commission on Human Rights (PCHR), the national human rights institution of the Philippines, was petitioned to inquire about climate change's impact on Filipinos and the role of the 'Carbon Majors'.

In the end, the Commission found the adverse impacts of climate change on the lives of the Filipino people and globally brought about the 'Carbon Majors.' The findings underscored that climate change is a grave and urgent human rights concern.



ADVANCING WOMEN'S AND GIRLS' ACTION FOR CLIMATE JUSTICE THROUGH THE RULE OF LAW



REVIEW OF DRAFT ASSESSMENT BY INSTITUTIONAL PARTNERS

August 15 - September 1, 2023

FINALIZATION OF DRAFT ASSESSMENT

September 1 - 18, 2023

Next Steps

FINAL VERSION

September 22, 2023

ADVANCING WOMEN'S AND GIRLS' ACTION FOR CLIMATE JUSTICE THROUGH THE RULE OF LAW



Additional Activities under the Project

01

Provide trainings and technical support state institutions on gender-transformative laws, regulations, and policies related to climate action

02

Deliver capacity development activities to CSOs, specifically women's organizations on topics related to gender and climate justice to facilitate their engagement and influence

03

Deliver targeted workshops for building capacity and leadership of women community leaders working on climate justice

Thank you very much!

