

# Ecuador's experience.

April 11, 2017  
Washington D.C

Hugo Cahueñas Muñoz



Consultant, IFRC  
Law Professor, USFQ.



---

# Session Outline

---

1. Introduction and purpose.
2. Disaster Law Programme (DLP) of the IFRC.
3. Housing, Land and Property (HLP) Rights.
4. Ecuador 2016 earthquake experience on HLP.
5. Relocations
6. Planned relocations
7. Muisne and Chamanga experience.



---

# ***Disaster Law Programme (DLP)***

## ***“promoting legal preparedness for disasters”.***

---



- **Technical advice** from the IFRC and NSs supports the **development and implementation** of domestic **laws, policies**, and/or procedures
- National Societies, the IFRC, and key partners gain greater **capacity and tools** for their work in disaster law
- Disaster law **advocacy** by the IFRC and NSs influences **inter-governmental processes** at the regional and global levels
- Disaster law issues receive greater visibility, particularly in **humanitarian and academic fora**, and **partnerships** are built
- New **research** on disaster law and information tools broaden the general knowledge-base and facilitate change



---

# Housing, Land and Property (HLP) Rights

---



# GUIDELINES



## KEY HLP PRINCIPLES FOR SHELTER PARTNERS March 2014

Human rights, including housing, land and property (HLP) rights, must be included in any humanitarian response to disasters.<sup>1</sup>

### WHAT ARE HLP RIGHTS?

HLP rights are the collective bundle of human rights laws, standards and principles that bear upon the residential conditions in which people live and the rights that individuals possess. HLP rights are applicable at all times, whether in peace, conflict, disaster or displacement. HLP rights provide the legal basis for the rights that individuals possess as well as the obligations that Governments have as duty-bearers to respect, protect and fulfill.

HLP rights in a post-disaster context include:

- The right to adequate housing;
- The right to non-discrimination in the HLP sector;
- The right to security of tenure;
- Protection against forced eviction;
- Protection of the most vulnerable and marginalized persons.

### THE LEGAL FRAMEWORK FOR HLP RIGHTS IN THE PHILIPPINES

The Government of the Philippines has the responsibility to respect, protect and fulfill its HLP rights, based on:

- International Commitments including: the Universal Declaration of Human Rights;<sup>2</sup> the International Covenant on Economic, Social and Cultural Rights;<sup>3</sup> the Convention on the Elimination of All Forms of Discrimination against Women;<sup>4</sup> the Convention on the Rights of the Child;<sup>5</sup> the Convention on the Rights of Persons with Disabilities;<sup>6</sup> ILO Convention 107 on Indigenous and Tribal Peoples<sup>7</sup> and the Hyogo Framework for Action 2005-2015.

<sup>1</sup> See Inter-Agency Standing Committee, Human Rights and Natural Disasters, Operational Guidelines and Field Manual on Human Rights Protection in Situations of Natural Disasters, January 2011, p.2; Special Rapporteur on Adequate Housing, Report to the Human Rights Council, Sixty-sixth Session, UN Doc. A/HRC/26/42, 20 December 2010, 33 and Special Rapporteur on the Adequate Housing, Report to the General Assembly, Sixty-Sixth Session, UN Doc. A/66/270, 5 August 2011, 14.

<sup>2</sup> Article 25(1) of the Universal Declaration on Human Rights.

<sup>3</sup> Article 11(1) of the International Covenant on Economic, Social and Cultural Rights.

<sup>4</sup> Article 14(2)(g) of the Convention on the Elimination of All Forms of Discrimination Against Women.

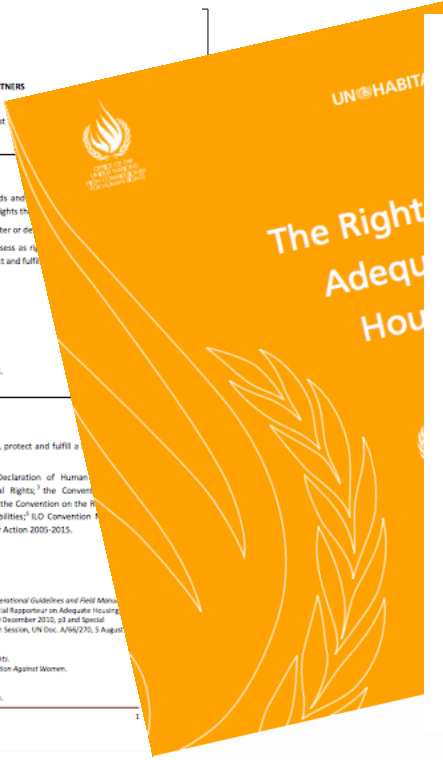
<sup>5</sup> Article 27(3) of the Convention on the Rights of the Child.

<sup>6</sup> Article 24(1) of the Convention on the Rights of Persons with Disabilities.

<sup>7</sup> Article 20(2)(C) of the ILO Convention No. 107 on Indigenous and Tribal Peoples.

SC Philippines

www.sheltercluster.org



United Nations

General Assembly

Date: General  
5 August 2011

Original: English

A/66/270

Sixty-sixth session  
Item 69 (b) of the provisional agenda\*  
Promotion and protection of human rights;  
human rights questions, including alternative  
approaches for improving the effective enjoyment  
of human rights and fundamental freedoms

### Right to adequate housing

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Ms. Raquel Rolnik, submitted in accordance with Human Rights Council resolution 15/8, paragraph 2 (b).

\* A/66/150.



11-44603 (E) 230811



## Housing, Land and Property in Ecuador

- Established a HLP rights working group under the auspices of the Protection and Shelter clusters, Country Humanitarian Team.
- The ERC with the support of DLP IFRC provided for this role.
- Comments on the implications for HLP of governments policy decisions. The Government changed the policy which used to exclude non-formal tenancy.
- The HLP group also provides technical support to operational agencies.
- Analysis of Vulnerability criteria for priorities for assistance.
- Capacitation to judicial system.



## Relocation of Muisne



- Population of the Island of Muisne will be relocated to the continental zone (Población de la Isla de Muisne será reubicada a zona continental)



# PLANNED Relocations





# Guidance: Planned Relocations



## HLP GUIDANCE NOTE ON RELOCATION March 2014

This Advisory Note provides guidance to Shelter Cluster P standards related to relocation as well as examples of best practices. Shelter Partners in their decision making on whether or not to relocate, and where they do decide to become involved, take a holistic perspective and in a manner that respects the rights of affected persons and in a manner that involves the right to succeed.

**Beyond shelter, the social and economic challenges of displacement are not random but reflect a specific economic and social fabric. Responsible settlements are about more than the construction of shelter, they are about the entire community where they not only have a standard of housing but also to utilities, critical infrastructure and livelihood on a settlement perspective involves the consideration of other aspects of displacement and how they all fit together physically and functionally.**

## STANDARDS ON VOLUNTARY AND INVOLUNTARY RELOCATION

After the emergency phase, persons affected by Typhoon Yolanda should be granted choice freely whether they want to:

- Return to their homes and places of origin;
- To integrate locally in the area to which they have been displaced; or
- To settle elsewhere in the country.\*

Affected persons should be provided with the information necessary to exercise their right to choose freely.



## BROOKINGS INSTITUTION GUIDANCE ON PROTECTING PEOPLE FROM DISASTERS AND EMERGENCIES CHANGE THROUGH PLANNED RELOCATION

("Guidance on Planned Relocation")

7 October 2015

Introduction.....

I. Scope and Purpose .....

II. Overarching Principles.....

III. Legal and Policy Framework.....

IV. Institutional Framework.....

V. Assessing the Need for Planned Relocation..... 17

VI. Planning and Implementing Planned Relocation..... 17

    Planning..... 19

    Information, Consultation, and Participation..... 19

    Measures Pending and During Physical Relocation..... 20

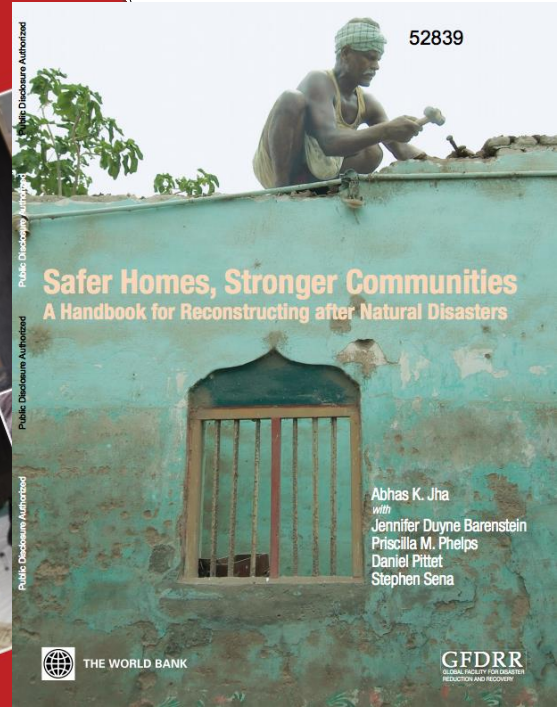
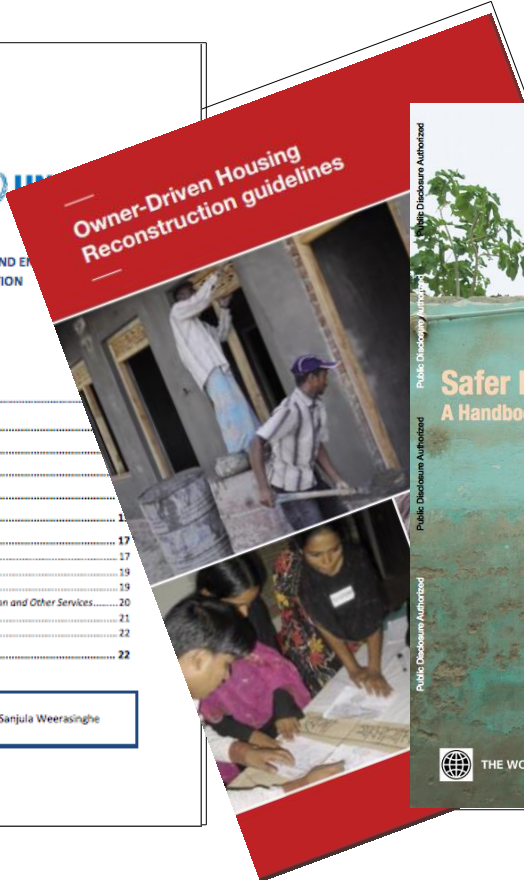
    Providing Conditions for Rebuilding Lives through Livelihood Restoration and Other Services..... 21

    Land and Compensation..... 21

    Monitoring and Evaluation..... 22

VII. When Does Planned Relocation End?..... 22

For further information about this initiative, contact Elizabeth Ferris ([Elizabeth.Ferris@georgetown.edu](mailto:Elizabeth.Ferris@georgetown.edu)), Jose Riera ([jriera@unhcr.org](mailto:jriera@unhcr.org)) or Sanjula Weerasinghe ([ssw33@georgetown.edu](mailto:ssw33@georgetown.edu))



---

## Planned Relocations

---

- General guidelines and protocols for relocation processes.
- A relocation form for authorities
- A form for citizens about relocations.



---

# Planned Relocations

- Moving and settling people in new locations may be:
  - An effective DRR strategy– *Sendai Framework*
  - Or CCA strategy - *Cancún Adaptation Framework 2010*.
- Planned Relocations are a complicated process that has the potential to leave people much worse off – including violating basic human rights and not addressing humanitarian needs. There are also risks for the host community.
- **A measure of last resort only.**
- **Due Process**
- **Consultation and participation of the community.**
- **Previously, to identify the land.**
- **Protection against forced eviction.**
  - Forced relocation is prohibited by international human rights laws.
  - to remove public services (energy, water, sanitation, etc.) can constitute forced relocation.
  - “In the event that the relocation was carried out in accordance with the aforementioned standards, such a resettlement process could constitute a serious violation of human rights, as required by Article 83 of the Penal Code.”



---

# *Muisne and Chamanga experience.*

---



Thank you !!!

