



Inter-Cluster Advisory to the HCT on the provision of assistance in proposed 'no dwelling zones'¹

This advisory is informed by meetings with representatives of the national and local government, non-governmental organisations, communities and individuals hit by the typhoon, as well as media reports. As yet, to our knowledge, the national government has not provided any official document, public notification or passed any ordinances on the proposed 'no dwelling zones' notion, implementation and outcome. It is understood that some municipalities have started the process as to the imposition of no dwelling zones, however, decisions nor detailed plans on relocation and process of consultation with affected communities are forthcoming. The lack of an official notification is hindering the provision of humanitarian assistance, with mixed messages being provided by municipalities on the consequences of providing assistance². It is strongly recommended that the HCT engages with the Government on this issue and advocates for national and local government communication with those affected, not only in relation to proposed no dwelling zones but also around compensation, beneficiary selection, relocation plans and the possible challenges to the process.

The provision of assistance in no dwelling zones cannot be considered in isolation. The impact of meeting the immediate needs of the affected people in no dwelling zones must also be considered with respect to the long term implications. There is a strong implication from the Government that all 'vulnerable' communities in proposed no dwelling zones will be relocated. However relocation is not only about rehousing people, but also about reviving livelihoods, ensuring sustainable income and rebuilding the community, the environment, and social capital. A high number of those at risk of being relocated earn their living from day to day offshore or literal fishing and other related activities, relocation disregarding such important elements will have a severe impact on such communities. Effective and sustainable relocation plans (temporary and permanent) are ones that the affected population helps develop and is viewed positively by all those concerned – including the host community.

The following discussion outlines the current position as the humanitarian community understands it to be and provides recommendations for the HCT to consider in relation to each point.

No Dwelling Zones:

The Philippines' national government has recommended that a 40m '*no dwelling zone*' from the high water mark³ be implemented by local government units (LGUs) in all areas affected by typhoon Yolanda to encourage livelihood regeneration and tourism but prevent any residential dwellings from being built⁴. The arbitrary nature of 40m has been raised and the Government has said that it has the right to put in place the greatest protection outlined in the Water Code which is 40m. However, on review of

¹ It is understood that the Government is now considering no dwelling zones as opposed to the initial no build zones. This is to apply to the same 40m measurement across the whole affected area, not just Tacloban.

² There have been reports from some municipalities that shelter agencies are being told by Mayors that should they provide assistance in no dwelling zones their programmes will be shut down.

³ Article 51 of the Presidential Decree No. 1067 or the Water Code of the Philippines (1976) has been cited as the relevant section of the Water Code.

⁴ Confirmed by Secretary Solliman (1st February) and Secretary Lacson (8th February)



the Water Code and its Implementing Rules and Regulations questions remain around the legal enforceability for such an approach, especially without the clear adoption of an official decree (with internal procedures for entry into force completed). Furthermore, national law implies that relocation on this basis could be contested before the courts.⁵

The purpose of the Water Code is to protect and conserve water sources from human impact (Article 2) not to ensure public safety. Article 51 of the Water Code mandates the creation of public easements next to water sources, specifically 3m in urban areas, 20m in rural areas and 40m in forest areas. The Code also states that “no structures” are allowed to be built on such easements, which appears to directly contradict the creation of “no dwelling zones”. If the Government is seeking to rely on the Water Code, clarification is required on the discretionary powers of the Government to impose a blanket 40m zone in all areas (urban, rural and forestry) as well as the ability to allow some structures (for example, hotels) and not others (dwellings).

Recommendations:

The primary solution for displaced persons post disaster should be return and restitution or voluntary relocation.⁶ Forced relocation should be justifiable and a measure of last resort. This includes the creation of no dwelling zones which have the effect of forcibly evicting people from their homes, places of former habitual residence and lands. These measures should only be undertaken where they are prescribed by law, they are necessary and they follow the principle of proportionality – in other words, they are the least intrusive method of achieving the imperative of public safety⁷. Furthermore, the relocation of persons from no dwelling zones should follow clear international⁸ and national⁹ standards on relocation, including best practice guidelines. It should be noted that the Commission for Human Rights are in the process of effecting its advisory on Human Rights Standards on Housing, Land and Property Rights of Populations Affected by Typhoon Yolanda in cooperation with OHCHR and the UN Special Rapporteur on Adequate Housing.

It has been reported by the media that the Mines and Geoscience Bureau (MGB) under the Department for the Environment and Natural Resources has undertaken a hazard mapping exercise and produced scaled maps of 1:10,000 however these have yet to be made public. Given the current proposed minimum caseload to be relocated¹⁰ and the human rights’ complexities surrounding such an act it is recommended that the Government should also consider;

⁵ Section 10 of Article XIII of the Philippine Constitution: Urban or rural poor dwellers shall not be evicted nor their dwelling demolished, except in accordance with law and in a just and humane manner. No resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.

⁶ Principle 28.2 United Nations Guiding Principles on Internal Displacement.

⁷ Section 28 of the Urban Development and Housing Act 1992 (Republic Act 7279)

⁸ In particular, principle 2.2 United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles).

⁹ Constitution of the Republic of the Philippines and the Urban Development and Housing Act

¹⁰ The latest DSWD figure (Feb 5th) states that 28,445 families are living in the no dwelling zone in Region VIII



- supporting or coordinating with the humanitarian community the undertaking of detailed hazard and vulnerability mapping of the affected regions, to develop a deeper understanding of the risks in all affected regions and to enable the development of a more nuanced disaster risk response, that better ensures the protection of persons living in coastal zones, as well as better respects their right to return and restitution as the preferred solution to displacement;
- serious consideration of disaster risk reduction measures – early warning systems, robust evacuation centres, raised housing, mangrove planting, coastal ditches – should be encouraged for those who remain in areas perceived to be no dwelling zones;
- vulnerability selection is carried out by the communities themselves building on NAPC/UNDP's active Kapti-Bisig Laban sa Kahirapan programme (Kalahi CIDSS); and
- development of land use criteria at the local level, with the support of national and international non-governmental organisations.

Those identified by the community for relocation should then be meaningfully consulted in all matters concerning their relocation including planning and management of the relocation process and visits to the proposed sites, whilst taking into account the living nature of coastal communities.

Government Strategy:

We understand that families whose homes are outside no dwelling zones are due to receive building materials worth Php 30,000 if the house is totally damaged and Php 10,000 worth if partially damaged. This package will consist of materials provided by DPWH and given to those beneficiaries selected by DSWD and the LGUs, however, people are confused on processes and compensation as there has been no clear indication or communication from the Government.

It is understood that for those households living in the no dwelling zones (regardless of whether their house is partially or totally damaged) they will receive a relocation package of between Php 120,000 – 220,000 from the National Housing Authority. This amount is variable as it not only includes the cost of the newly built house but also the site development etc, again this amount is to be given in kind and not cash.

Although it has been announced by Secretary Lacson that no further bunkhouses will be built, Secretary Solliman has announced that for Government shelter, the LGUs have the option of choosing between 1) bunkhouses and 2) stand-alone houses built according to the design of the LGU's choice.

It has been agreed that bunkhouses built to DSWD/CCCM's standards, with appropriate protection measures in place, are an acceptable form of temporary shelter in the absence of viable alternative temporary shelter solutions.



Recommendations:

In accordance with international¹¹ and national laws the right of all affected people is to be able to make an informed decision on whether they would like to return, locally integrate or relocate to a new site and this right should be respected and compensated accordingly, including cost of land lost.

Concern has been raised by communities that if they are residing in a proposed no dwelling zone and do not get relocated to a bunkhouse then they will no longer be eligible for any further shelter assistance. 198 bunkhouses have been completed by DPWH, of a possible 242 (including approx. 20 in Region VI)¹² and there is a current estimate of approximately 60,000 families residing in no dwelling zones in Region VI, VII and VIII for whom municipalities are considering relocation (including approximately 28,000 in Region VII), consequently there is a need for the Government to communicate its strategy to the affected population to avoid misinformed resettlement and conflict amongst the affected population. Furthermore, with only three sites identified for permanent relocation, accommodating approximately 12,000 families, what is proposed for the remaining 18,000 families in Region VIII let alone other Regions who are saying that there is not enough available land to accommodate such plans. The HCT should work with the Government to establish a durable relocation plan for each Region.

Furthermore a number of issues are arising in Region VI and VII whereby people who are residing in proposed no dwelling zones and who have either not been affected by the Typhoon or at risk are being relocated for reasons other than their safety. These concerns should be investigated further with the LGUs and if required raised at the national level.

Beneficiary Selection

DSWD is in the process of developing 'Guidelines for the Prioritization of Family Beneficiaries for the Bunkhouse and/or Transition Shelter Assistance Program' and the Protection Cluster has been working closely with DSWD on these. These particularly address "those families whose original area of habitation has been declared by the national and/or the LGU as a no dwelling zone and thus are no longer allowed to return to their original area of habitation" and whose homes have been partially or totally damaged by the Typhoon. These people are further characterised by additional vulnerability criteria including income below the food threshold of the region. It is reflective of the 2010 Omnibus Guidelines (DSWD's Shelter Assistance Guidelines) which categorises vulnerable groups and then provides further prioritisation especially around families who have not received any other housing assistance from anyone else (including the humanitarian community) in addition to other vulnerabilities.

The guidelines outline the process of beneficiary selection to be undertaken by DSWD and the LGUs however one clear omission is around consultation with the affected population and also what happens to those that are not included in the selection list (especially those who may have dropped below the threshold because of the impact of the Typhoon) who are also excluded from being in the 10k & 30k

¹¹ Principle 28.1 UN Guiding Principles on Internal Displacement,

¹² The CCCM cluster is currently carrying out an assessment and providing a support plan for those bunkhouses which require additional work carried out so as to ensure that they are in line with Sphere Standards.



compensation package by their very location. A number of reports state that affected communities are not being consulted leading to questions around inappropriate evictions being carried out.

Recommendations:

As mentioned previously, the Philippine Constitution clearly states that “no resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.”¹³ Selection criteria should be consistent, fair (without discrimination) and transparent and clearly communicated to the affected community, through multiple communication channels. Community committees should be appropriately established so that consultation measures can be put in place with grievance mechanisms established and accessible to all members of the affected population.

Consideration should also be given to those people who are in no dwelling zones who have not had structural damage to their homes and furthermore, those who may reside in hazard areas (landslide, flood prone areas) that are not near the coastline.

Provision of Humanitarian Assistance in No Dwelling Zones:

The Government has announced through the media and public presentations that it will not be providing any assistance in no dwelling zones and consequently nor should the humanitarian community. From discussions with shelter actors it has also been made clear that agencies have been approached directly by Municipal authorities (often the Mayor themselves in Region VIII) and have been directly told to cease providing assistance. Whereas we understand that the Government has been providing food assistance to families in no dwelling zones in Region VI and bunkhouses have been built in no dwelling zones in Guiuan. As can be seen in a number of proposed no dwelling zones, people have returned already and are rebuilding, regardless of assistance being provided. Also, sometimes agencies have continued to provide assistance in no dwelling zones, with the explicit support of LGUs.

Recommendations:

There are a number of case studies that have been carried out that consider the impact that relocation has had in post natural disasters¹⁴ and one strong conclusion is that if relocation plans are not appropriate then there is a high risk that those who will be relocated will abandon the sites and return to areas where there may be inadequate provisions for them or unsafe conditions remain. In order to get this right, respect fundamental human rights and to avoid the creation of future slums both in relocation sites and in existing sites, meaningful consideration needs to be given to the implementation of no dwelling zones and the temporary and permanent relocations that are and will follow so as to ensure that durable solutions can be found for all affected people and their human rights can be

¹³ Constitution of the Republic of the Philippines Article XIII Section 10, 1987

¹⁴ GFDRR & World Bank (2010) Safer homes, Stronger Communities: A Handbook for Reconstructing Housing and Communities after Natural (Chapter 5, To Relocate or Not to Relocate)
<https://www.gfdr.org/housingreconstruction>



enjoyed without discrimination. In order to do this the HCT needs to advocate and support the Government to adhere to not only its own laws but also those international laws, standards and best practices that are put in place to protect the most vulnerable.

It is therefore strongly recommended that the HCT engages with the Government and advocates for clarification on the no dwelling zones, including:

- Why the 40 metre no dwelling zone should be implemented - is this the most effective and least intrusive method of enhancing public safety? For example, there may be other more effective risk reduction strategies, including the creation of mangrove and protective vegetation, multi-purpose two story structures with dwellings on the upper floor and coastal dykes; Hazard and vulnerability mapping may also reveal specific areas of high and low risk, allowing some or many of the people in the no dwelling zones to exercise their right to return to their homes or places of former habitual residence;
- Where exactly the no dwelling zones will apply;
- What they will cover (are they no structure or no dwelling zones, will some kind of structures be allowed to stay?¹⁵);
- When will relocation plans be implemented (including a timeline for site identification, site construction, beneficiary selection – including consultations and site visits - and relocation); and
- How will relocation plans be implemented (including whether there is enough available and suitable land, are sufficient funds available to ensure that people can relocate in safety and with dignity and in a manner that ensures durable solutions, how will beneficiary selection be undertaken and how will compensation be arranged).

In the interim, it is recommended that the HCT engages with the Government at the highest levels and advocate for an **urgent communication** that all humanitarian actors are allowed to engage in emergency support in the no dwelling zones, including emergency shelter of a non-permanent type (including tarpaulin, CGI sheeting, timber and fixings) as well as corresponding WASH, health, education, livelihoods, protection and CCCM support.

Additionally viable alternatives should be considered such as the repair of damaged public and private buildings for use as temporary shelter solutions as well as rental and host family support. Advocacy around disaster risk reduction measures (early warning systems and evacuation centres) should also be encouraged for those who remain in areas perceived as no dwelling zones.

This emergency support should be permitted pending a more comprehensive hazard and vulnerability mapping and the creation of detailed and effective risk reduction plans. Caution must be taken where obvious risks are evident and where LGUs have already identified relocation sites and are following due process.

¹⁵ Shelter cluster partners have heard that some LGUs are prepared to allow structures to remain in no-dwelling zones and for the head of the household to be allowed to live there.