

# Human Rights and Gender Equality Issues to be integrated into Dutch Delta Planning

Lessons Learned from the Manila Bay Sustainable Development Plan

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## INTRODUCTION

Ongoing coastal development programs pose various threats to civil, political, economic, social, and cultural rights of fisherfolk and urban poor communities across the coasts of Manila Bay, a semi-enclosed marine water body whose coasts and watersheds are home to 23.21 million people. In this context, the Kalikasan People's Network for the Environment (Kalikasan PNE), a Filipino national environmental campaign centre conducted a rapid action research to assess the human rights and gender inequality risks and impacts of land reclamation in Manila Bay. This was done through the support of the Fair Green and Global Alliance led by Both ENDS, a Dutch environmental justice non-governmental organization.

This assessment aims to establish a qualitative baseline on the human rights compliance and recognition of gender inequality issues and concerns by reclamation projects in Manila Bay. This is done with the specific aim to favourably influence the analysis and subsequent action planning of the Dutch co-financed and — executed delta plan, the Manila Bay Sustainable Development Master Plan (MBSDMP), which started in 2018. This plan aims to guide decisionmakers in the assessment and approval of proposed developments in Manila Bay and the surrounding areas which significantly influence the bay<sup>1</sup>.

Requests to conduct an ex-ante human rights and a gender differentiated impact assessment — as stipulated by the OECD Guidelines on Business and Human Rights and the UN Guiding Principles on Business and Human Rights — have not been addressed to this date. Relevant insights from the rapid assessment carried out by Kalikasan PNE form the basis of this brief. Their action-based and participatory research is used as an example of a baseline risk assessment on human rights and gender inequality risks for both current and future scenarios. As such, this policy brief is not only relevant to ongoing developments in Manila Bay, but can also inform master planning processes in other locations as well.

<sup>1</sup> More information on the MBSDMP and its background documents can be found on <http://www.mbsdmp.com/>

*After the last typhoon, the island underneath this village was submerged. The houses now rest on bamboo stilts. Pippi van Ommen, 2019*



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## MANILA BAY

Fisherfolk have lived in Manila Bay for thousands of years. They lived on islands secluded by mangroves, which coverage has drastically dropped to an estimated 790 hectares from over 50.000 ha in the early 19th century, largely due to ecological degradation. The land where fisherfolk reside is sinking because of groundwater extraction. Climate change exacerbating weather events will indubitably put more families at risk. With typhoons frequenting the coast, the communities living on the coastline (some in houses on bamboo stilts) are used to bracing for storms, but endure great losses. Boats get wrecked, houses are destroyed, and relief goods are often delivered late.

Women, attending to the needs of the family by finding food and housing, are especially hit hard during natural hazards as they are forced to take extra risks to cater to the family needs. The small scale fisherfolk economy is divided along

gender lines where men are responsible for the catch, which mostly consists of crabs which are caught by hand. The women tend to the children and mend fishnets, some own a little shop. Single parent women may also fish themselves.

The average income of a fisherfolk family is around 10 euros per day with which they must feed five or more. Hunger, malnutrition and poor health are often named as the most impeding issues of the coastal communities.

*Along the coast of Manila Bay. Pippi van Ommen, 2019*



## MANILA BAY MASTER PLANNING PROCESS

In 2018, the MBSDMP planning process started as a result of Dutch-Filipino collaboration on water management and coastal defence. Prior to this, a team of Dutch water experts highlighted the need for such a master plan as part of Dutch-financed Disaster Risk Reduction mission held in 2015<sup>2</sup>. The MBSDMP is commissioned by the Philippine's National Economic and Development Authority (NEDA), with support from the Dutch Government. The formulation of the MBSDMP has been awarded to a joint venture of Orient Integrated Development Consultants, Inc. (OIDCI/Lead Firm), Tractebel, Inc., and University of the Philippines Los Baños Foundation, Inc. (UPLBFI); jointly referred to as the Local Consulting Firm (LCF). Deltares, a Dutch water research institute, has been contracted by NEDA with the support from the Dutch Government to guide the LCF in the formulation of the MBSDMP.

The MBSDMP aims to inform decision makers on developments in the bay and its immediate surroundings. Although, it remains to be seen how much of the plan will be implemented, fisherfolk communities living in Manila Bay are concerned with its influence on their lives. These communities, which are among the poorest of the Philippines, are already confronted with land reclamation projects and rehabilitation programs which pose a direct threat to them, as these lead to ecosystem destruction and (forced) resettlements. The assessment carried out by Kalikasan PNE in collaboration with the local communities set to assess the human rights and gender inequality risks and impacts of land reclamation in Manila Bay. The research was carried out in five sites of investigation in the provinces of Bataan, Bulacan,

and Cavite, and the cities of Navotas and Manila. It used qualitative research methods such as focus group discussions, key informant interviews, environmental issue profiling, and literature review. The combination of these data gathering methods aided the understanding of the relationships, interactions, and local realities<sup>3</sup>.

These local realities perceived by the fisherfolk communities — as well as the human rights and gender inequality risks — are currently not being considered in the formulation of the MBSDMP. Without any consideration of these topics, it seems likely that any recommendations to decision makers resulting from the MBSDMP will reinforce the threats currently perceived by the coastal communities.

<sup>2</sup> DRR Mission Report Manila Bay Master Planning (2015) [https://www.drrteam-dsswater.nl/wp-content/uploads/2015/06/Manila\\_Bay\\_mission\\_report\\_January2016\\_final.pdf](https://www.drrteam-dsswater.nl/wp-content/uploads/2015/06/Manila_Bay_mission_report_January2016_final.pdf)

<sup>3</sup> For sake of clarity and brevity this policy brief only presents the main findings from the assessment conducted by Kalikasan PNE. For more information on the methodology, the full report can be requested from Giacomo Galli ([g.galli@bothends.org](mailto:g.galli@bothends.org))

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## HUMAN RIGHTS AND GENDER EQUALITY ASSESSMENT

The assessment executed by Kalikasan PNE is held as an example in how due diligence could be carried out, which is why the findings are framed within the three pillars of due diligence following the OECD Guidelines and the UN GPs: 1) country context; 2) possible direct impact; and 3) possible indirect impact.

### I. Country Context: The Philippines and Human Rights

Recent reporting on the human rights situation in the Philippines is alarming and directly implicates the national government of the Philippines. The President of the Philippines, Rodrigo Duterte who started his term on June 30 of 2016, has explicitly attacked the rule of law on multiple occasions. A climate of fear pervades his rhetoric which demonizes the very concept of human rights, often translating into government actions such as police raids. Duterte has become especially notorious for his 'war on

drugs', his most open and gruesome disregard of human rights; Human Rights Watch estimated in 2018 that this led to 12,000 extrajudicial killings<sup>4</sup>. Amnesty International, again on the war on drugs, refers to Bulacan province as the "bloodiest killing field" of The Philippines<sup>5</sup>. This is also a key site for reclamation projects in Manila Bay, including for a new airport which is to be constructed<sup>6</sup>.

Human rights defenders and activists are subject of alarming and shameful levels of harsh reprisal and intimidation, confirmed by a 2018 report of the United Nations<sup>7</sup>. In 2017 alone, 60 human rights

defenders were killed<sup>8</sup> and in the three years 2015-2017, 102 environmental activists have reportedly been killed<sup>9</sup>. There is a real risk to speaking out for human rights and this must be considered in the planning for Manila's future. There is a constant danger for grassroots organizations defending the rights of communities. Organizers cope with mental health issues, stress and anxiety because of the nature of their work. Extra care for human rights must be taken, in an environment that is so hostile to them. Women Human Rights Defenders also face gender specific risks such including sexual harassment and stigmatization.

*Activists around Manila Bay mobilized to protest against land reclamation. Kalikasan PNE, 2019*



## II. Potential Direct Impacts: Delta Planning Processes and the Lack of Meaningful Participation

Consultations and planning as part of the MBSDMP are exclusively organized at higher levels. Considering the diversity of Philippine Civil Society and the wide variety of organizations having a stake in Manila's future, it is unclear why certain parties are included in the planning and others are not. In this regard, some frustrations have arisen among Filipino NGOs:

Firstly, participation is on a voluntary basis for those not formally part of the MBSDMP-team. This implies that time and money spent on transportation are not compensated. Due to large distances and traffic, it can take up to four hours just to get from one side of Metro Manila to the other — let alone from one side of the bay to the other. When stakeholder consultations are not held on-site, but rather where it suits the expert team best, the smaller, less-funded and further-away organizations are side-lined. Especially for women it is often difficult to travel far due to their multiple responsibilities as well as safety concerns.

Secondly, invitations have often been sent one or two days before the session. Preparing on such short notice is not feasible for many (smaller) organizations. This has been addressed to a certain extent throughout the process, with invitations now being sent a week in advance. Unfortunately, this is not yet enough time for most organisations to effectively prepare themselves.

Thirdly, for some organizations it entails a risk to participate — especially when their stance

includes critique. And thus, because of the nature of the participation process, urban poor communities and male and female fisherfolk are being spoken for, but not able to directly represent themselves. One critical individual of reclamation projects has been the target of an attempted assassination. Various communities in Manila Bay have reported harassment by police, military and government units, when they tried to organize to speak out against land reclamation projects. Harassers have also warned communities not to welcome certain organizations and accused these organizations of having ties to the New People's Army (NPA), a armed insurgent group. In the assessments done by Kalikasan, reports from some communities have also emerged of villages going up in flames after having been set on fire by unknown men and some active individuals in communities having received death threats in the past years.<sup>10</sup>

Aside from the restraints mentioned above, it is for many people unclear why they should participate in the first place. For those providing inputs to the plan, no insight is given into how different perspectives will be weighed by the experts in coming to the solutions to be proposed in the final master plan. Groups and organizations with unconsolidated and informal positions in the participation process are also those who have been historically marginalized, and nothing is being done to address their position. Nor are structures being put into place that would give the communities with most at risk more agency over the process. Participation can therefore mean more losses than gains.

4 Human Rights Watch 'Philippines: Duterte's 'Drug War' Claims 12,000+ Lives' <https://www.hrw.org/news/2018/01/18/philippines-dutertes-drug-war-claims-12000-lives>

5 Amnesty International 'Philippines: 'They just kill'. Ongoing extrajudicial executions and other violations in the Philippines' 'war on drugs' <https://www.amnesty.org/en/documents/asa35/0578/2019/en/>

6 See for instance <https://www.philstar.com/business/2019/09/03/1948581/all-systems-go-smcs-bulacan-airport>

7 United Nations Human Rights Council, Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General: Human Rights Bodies and Mechanisms, 2018 <https://www.ohchr.org/Documents/Publications/OHCHRreport2018.pdf>

8 Frontline Defenders, Annual Report on Human Rights Defenders at Risk in 2017, 2018 [https://www.frontlinedefenders.org/sites/default/files/annual\\_report\\_digital.pdf](https://www.frontlinedefenders.org/sites/default/files/annual_report_digital.pdf)

9 The Guardian and Global Witness, 'The Defenders: 207 Environmental Defenders Have Been Killed in 2017 While Protecting Their Community's Land or Natural Resources', <https://www.theguardian.com/environment/ng-interactive/2017/jul/13/the-defenders-tracker>; Global Witness, Defenders of the Earth, Global Killings of Land and Environmental Defenders in 2016, 2017 <https://www.globalwitness.org/pt/campaigns/environmental-activists/defenders-earth/>

10 For further reading on Human Rights abuses in the Philippines see: Global Witness, 'Defending the Philippines', 2019 <https://www.globalwitness.org/fr/campaigns/environmental-activists/defending-philippines/>

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### III. Potential Indirect Impacts

#### Relocation and Reclamation

As part of the rehabilitation plan unrolled by the government, supported by the expert team of the MBSDMP, 300 thousand Informal Settler Families (ISF) are to be relocated, according to statements in local media<sup>11</sup>. In publications of the MBSDMP expert team relocation is not elucidated. The high number of people living in informal settlements are mentioned as an issue to be dealt with, but lacks an analysis of the root causes behind this high number of people living in slums. In this case relocation will likely lead to the emergence of new settlements elsewhere.

Kalikasan's studies reveal that there are 27 unsolicited reclamation projects in varying stages of approval that would collectively cover 31.609 hectares of the bay. Reclamation development is typically not for the poor. It is questionable whether high-end apartments constructed on the proposed land reclamations will provide housing to the people currently living in the coastal areas. In a previous case of land reclamation for the SM mall of Asia, casinos and Bonifacio Global City, communities were forcefully relocated<sup>12</sup>. The economic potential of land reclamation is mentioned during stakeholder consultations as a convincing argument for the beneficial impact on the Philippines. However, construction work only offers temporary jobs and mostly in the sector that may not fit the capacities of fisherfolk who would need a new sustainable livelihood if they lose access to their fishing grounds. Failure to address their concerns are identified due to the corruption in the government and their bias towards the interest of big corporations.

Based on experience, the influx of construction workers for the build-up of the reclamation sites, increases fear of sexual harassment and rape among the communities. Environmental damages as the effect of reclamation projects, also have communities worried. According to participants in the assessment, the water level will rise drastically especially during high tide and permanently flood their areas, as reclamation will reduce the drainage capacity towards the sea, leading to longer time for flood water to subside. Participants also identified that reclamation may result to new hazards such as liquefaction and erosion. Moreover, according to local a fisherfolk federation, decreased accessibility to fishing grounds also negatively influence fisherfolks' livelihoods, as happened in Navotas after the construction of a sea-dike. All such factors, even when not all families are to be relocated, may result in indirect displacement. Relocation sites are often where there is space: in the mountains. For fisherfolk relocating to the mountains means they lose their job and cultural heritage. With no access to their fishing grounds, they struggle to make ends meet. According to local NGO workers, in previous relocation waves to make way for the SM Mall of Asia, this has meant families falling into poverty and some women having to resort to prostitution.

#### Compliance, due diligence and remediation

Community members in the five locations perceived reclamation projects as drivers of disaster risks which compound upon present threats to their various rights, including their right to information, right to self-determination, right to jobs, livelihoods, and social services, and right to property, safety, and security, among others. The study reveals that reclamation projects

across all five sites do not follow four internationally accepted human rights standards for business enterprises: 1) they do not follow domestic laws on civil, political, socio-economic, and environmental rights; 2) they do not have their own internal human rights policies; 3) they have not done human rights due diligence to identify, address, and remediate potential and actual violations of people's rights; and 4) they do not have their own remedial mechanisms or have track records of cooperating with State mechanisms for remediation.

Furthermore, none of these reclamation projects recognized the greater risks posed on women, and therefore have no particular interventions to address these risks. Reclamation proponents do not address the five levels of inequality experienced by women across Manila Bay in terms of material services, accessibility of jobs and livelihood, space for participation in governance, and equity in determining the utilization and management of the environment, natural resources, and economies of their local communities. There are no references to differentiated impact on women as compared to men, as stipulated by the Convention of the Elimination of All forms of Discrimination against Women (CEDAW)<sup>13</sup>. These zero baselines were also seen in the situational analysis of the MBSDMP. As this plan will be seen as a blueprint until 2040, the lack of data on human rights and gender inequality is expected to result in development choices that will systematically entrench the marginalization of women and other vulnerable sectors in the context of a business-as-usual situation where land reclamation and even rehabilitation programs are threatening them with eviction, natural resource grabs, and loss of livelihoods.



## RECOMMENDATIONS

The assessment carried out by Kalikasan PNE has shown what types of rights violations are directly related to developments in Manila Bay, including harassment by military, attempted assassination, arson, limited consultation and a failure in addressing lack of information and fear among communities. For Manila Bay, it is recommended that a more comprehensive human rights and gender inequality risk and impact assessment be required to all proponents of reclamation, rehabilitation, master planning, and other coastal development activities. Policy interventions such as executive orders up to national legislation are required to make national government adopt this measure. A moratorium on prospective reclamation projects in Manila Bay is recommended until such policy interventions are promulgated and enforced.

As co-founders and initiators of the MBSDMP, the MBSDMP-team and the Dutch government have a responsibility and opportunity to dedicate appropriate attention and resources to the vulnerable groups to be affected by the planning process, as well as the projects implemented as deriving from the master planning processes. The participation process should be corrected.

### Recommendations

In order to protect and promote human rights and gender equality, and to ensure meaningful participation, we have the following recommendations to the Dutch and Filipino governments as co-funders and commissioners of the plan, as well as to the Dutch and Filipino MBSDMP-team carrying out the planning.

### To protect and promote human rights:

- Respect the OECD Guidelines and the UN GPs when designing future steps of the master planning process. Ensure an independent, elaborate human rights analysis is being done, building upon the work of Kalikasan.
- Assure that the process guarantees informed consent and social acceptability of vulnerable groups.

- Understand the human rights context of the country and adapt methods of participation according to the level of safety citizens of the country have.
- Develop and implement a contingency plan in case of severe human rights abuses in the context of developments related to the MBSDMP.

### To protect and promote gender equality:

- Respect the Convention of the Elimination of All forms of Discrimination against Women (CEDAW) and carry out a gender differentiated impact analysis and assure the availability and use of gender disaggregated data throughout the master plan process.
- Consult directly with both men and women of the most vulnerable communities through meaningful field visits, including women's rights groups active in the region.
- Hold sessions with only women to create safe spaces in which women are able to speak up freely and specific gender equality issues can be discussed.

11 See for instance <https://businessmirror.com.ph/2019/01/05/saving-manila-bay/> and <https://nfac.elgoal.net/2019/02/01/300-000-illegal-settlers-sa-manila-bay-balak-ipa-relocate-ng-denr-dahil-sandamakmak-ang-basura/>

12 Narae Choi, 'Metro Manila through the Gentrification Lens: Disparities in Urban Planning and Displacement Risks', *Urban Studies*, 53.3 (2016), 577–92 <https://doi.org/10.1177/0042098014543032>;

Arnisson Andre C. Ortega, 'Manila's Metropolitan Landscape of Gentrification: Global Urban Development, Accumulation by Dispossession & Neoliberal Warfare against Informality', *Geoforum*, 70 (2016), 35–50 <https://doi.org/10.1016/j.geoforum.2016.02.002>

13 See also Submission to the UN Working Group: Gender Lens to the UNGPs <https://www.oecdwatch.org/2018/10/30/submission-to-the-un-working-group-gender-lens-to-the-ungps/>

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**To ensure meaningful participation:**

- Assure that a Senior member of the team carries the responsibility for the participation of local communities, women and vulnerable groups throughout the entire master plan process. Ensure sufficient expertise on human rights and gender equality is available in the team.
- Carry out a stakeholder analysis, with inclusion of possible conflict of interests between stakeholders.
- Offer support to those organizations and individuals, in the form of travel reimbursement and per diem for example, that might otherwise not have the capacity to come to consultations, and send out invitations to meetings at least 2-3 weeks in advance.

- Communicate clearly and in a tailored way on the progress of the planning process and realistically manage the expectations surrounding the extent of master planning implications.
- Giving a-priori insight into how people's input will be integrated in the master plan and weighed in decision-making, preferably making use of a comment response matrix.
- Elaborate with stakeholder groups various scenarios (including ecosystem rehabilitation) for the sustainable development of Manila Bay through a Strategic Environmental Assessment (SEA)<sup>14</sup>.

The Dutch government and the planners involved in the MBSDMP are urged to take concerns on human rights violations related to delta planning seriously and follow up on them. The Dutch have put considerable effort into conveying internationally that their water knowledge is credible and powerful, which should be leveraged to also raise those other policy issues found to be important such as respect for human rights and achievement of gender equality. Carrying out due diligence needs therefore to be integrated into every delta planning process to adequately answer to these calls<sup>15</sup>.

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<sup>14</sup> Netherlands Commission on Environmental Assessment 'SEA Manila Bay Sustainable Development Master Plan-Philippines', <https://www.eia.nl/en/projects/7233>

<sup>15</sup> Practical steps can for instance be found in the FAO Technical Guides to apply the VGGT's (Voluntary Guidelines on the Governance of Tenure).



*Fishing is the main livelihood strategy of many communities in Manila Bay. Land reclamation threatens this source of income.  
Pippi van Ommen, 2019*



