

## **Santa Fe Declaration on Disaster Risk Reduction**

Having met in the city of Santa Fe, in the Argentinian Republic, on November 12<sup>th</sup>, 2014, at the World Congress on Law, Policy and Management of Disaster Risk, an event that put together lawyers, congressmen, judges, local governments, political leaders and civil society organizations, aiming at the contribution to the existing international agendas that focus on the management on disaster risk reduction.

The final result of this Congress represents a contribution to the 3<sup>rd</sup> UN World Conference on Disaster Reduction Risks, an event that will take place in Sendai, Japan, from March 14<sup>th</sup> until 18<sup>th</sup> 2015, as well as for the documents that are being produced within international negotiations for this same Conference.

This Santa Fe Declaration on the Reduction of Disasters Risks was prepared on the basis of previous researches, like the Research Project on International and Compared Law Disasters and Human Rights (CADHOM), conducted by the Limoges University and the International Centre for Comparative Environmental Law (CIDCE), as well as the contributions of experts, professors, judges, local governments, civil society organisations, together within the various places and sessions in the Congress.

According with the contents of the document “Aportes de los gobiernos locales”, adopted at the 4<sup>th</sup> Session of the American Regional Platform for Disaster Risk Reduction, in Guayaquil, from May 27<sup>th</sup> to 29<sup>th</sup>, 2014.

Considering these elements,

We declare that

International negotiations concerning the 2015 Sendai Conference should take into account the following recommendations.

### **I - Recommendations at international and regional level**

States should adhere to and ratify international sectorial conventions that already exist concerning disasters. That is the case of the 1998 Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations and of the 2000 Framework Convention on Civil Defence Assistance, adopted at the International Civil Defence Organisation.

Considering that the 1998 Aarhus Convention is a global reference framework concerning the access to information, public participation and access to justice in environmental matters, and that this Convention is useful in disaster situations, we recommend that the States adhere to the principles therein affirmed.

### **1) Integrate human rights and disaster law**

- In the absence of a global standard to guide, unite and consolidate disaster law, the international community should adopt a framework convention based on an integrated approach to the whole cycle of natural and technological disasters, taking due account of human rights.
- Pending such a convention, States should adopt an international code of principles or guidelines on the protection of persons in the event of disasters, covering natural and technological disasters, and applicable to the entire cycle of the disaster.
- Regional organizations should promote the integration of human rights in disaster-related standards and assistance agreements, in particular with regard to the protection of victims of disasters.

### **2) Support the United Nations International Law Commission's draft articles on the "Protection of persons in the event of disasters"**

- The United Nations International Law Commission has adopted on first reading the draft articles on the protection of persons in the event of disasters at its 66<sup>th</sup> Session on August 6<sup>th</sup>, 2014. States and international organizations concerned by this matter should support the draft and take action to turn it into a global convention.

### **3) Strengthen the institutional framework on disasters and human rights**

- The international institutional framework should establish a more integrated international governance for disasters that is able to facilitate and strengthen coordination between the various bodies responsible for matters related to disaster risk management and the impacts of disasters on human rights.
- Stronger coordination between the bodies responsible for human rights and those dealing with the reduction of disaster risks and humanitarian assistance would be desirable to incorporate human rights in their areas of work.
- UN Human Rights Protection bodies should become members of the IASC (Inter-Agency Standing Committee).
- Regional bodies dealing with disaster risk management should encompass the protection of the victims' human rights and coordinate their activities with the regional bodies and systems for the protection of human rights.

### **4) Facilitate access to justice and to international and regional mechanisms for the protection of human rights**

- Regional systems and international mechanisms for the monitoring of human rights should be strengthened to address violations of human rights in the event of disasters.

- Information should be provided to the victims of disasters on how to have access to these bodies.
- Special measures for legal assistance to the victims of disasters should be created.

### **5) Adopt an international legal status for environmentally-displaced persons**

- It's necessary to fill the legal vacuum at the international level regarding environmentally-displaced persons. In this way international community should be compromised in negotiations processes with a view to adopting an international legal status for environmentally-displaced persons. The draft developed by research centres of the Limoges University and the International Centre of Comparative Environmental Law (CIDCE) addresses this need.

In the meantime, it is recommended that the States endorse the International Declaration on Environmentally Displaced Persons, prepared by the International Centre of Comparative Environmental Law (CIDCE), in August 2014, a text that is part of the present Declaration.

## **II. Disasters and Human rights recommendations at the national level**

### **1) Constitutionnalisation of disaster law**

Some recent Constitutions have promoted disaster law constitutionnalisation. These good examples of ensuring that people's protection should be taken into account in the cases of disasters at the highest level should be followed by other States.

As Human rights are provided and guaranteed by Constitutions, disaster law constitutionnalisation could create a « common space » and promote « communication » between Human rights and disaster law.

### **2) Integration of Human rights into disaster law**

Disaster Law should integrate Human rights within every step of the disaster cycle as a resilience tool for the communities, particularly the most vulnerable ones.

### **3) Incorporation of human rights in urban planning and land use policy**

Aiming at an adequate risk management as well as the promotion of sustainable development, States should integrate Human rights in their urban planning and land use policies, especially by considering disaster risk.

With the objective of reaching a better urban resilience in disaster situations, land use policy must have an integrated vision of urban planning, harmonizing land use law and environmental protection norms and policies. These policies should have an integrated vision of the territory, taking especially into consideration the inter-relations between urban and rural spaces management, as well as environmental sensible areas.

As for spontaneous urban settlements in risk areas, States should urgently consider the relocation of these populations, with respect to human rights, instead of simply promoting the urbanisation of these human settlements.

Following a contemporaneous conception of urban planning, the adaptation of the cities' forms to the natural areas they occupy constitutes a resilience factor to disasters.

#### **4) Coordination of Human rights bodies and disaster risks management organizations**

Institutional disaster risks management framework should integrate public institutions and Human rights non-governmental organizations.

Human rights national systems should also integrate issues related to disasters.

#### **5) The role of local public Authorities**

Local level disaster risks management must be promoted and strengthened.

As regards of the proximity principle and considered their urban and land use responsibility, local authorities must take the first measures of preparedness, response and reconstruction in case of disaster and make sure that Human rights are also taken into account.

In the cases of nuclear disasters, adequate measures must be provided for the systematic and organized evacuation of the population as well as the distribution of iodine tablets.

#### **6) Civil society participation**

Civil society participation, particularly NGOs, is essential in disaster risk management in order to guarantee that people can enjoy their Human rights.

Benefiting from spaces for action, powerful tools, such as new technologies of communication, civil society should participate effectively and operationally to disaster risk management at all stage and pay a special attention to vulnerable groups' participation.

#### **7) States duties to protect people in case of disaster**

Affected States hit by a disaster have the duty to protect people as well as their rights and to provide them with first aid and emergency response.

To the extent that a disaster exceeds its national response capacity, the affected State has the duty to seek external assistance.

States should not be able to arbitrarily refuse external assistance as it would configure a Human rights violation of the disaster victims.

#### **8) Declaration of emergency state in case of disaster**

Declaration of state of emergency must not be applied to all disasters but exclusively to those presenting the highest public risks and danger.

Exemption or limitation to some human rights should stay strictly under control.

#### **9) Integration of Human rights, disasters and climate change**

States should adopt mitigation and adaptation plans to cope with climate changes taking their impacts on Human rights into account, especially for displaced persons.

It is critical that the international community takes into consideration the special situation of the Small Island Developing States, especially in South Pacific, where their territory and State are at risk of disappearance, demanding a definitive relocation of their populations.

#### **10) Establish a preparedness, adaptation and resilience culture for a better consideration of Human rights**

States should set up a culture of resilience based on Human rights at all stages of disaster.

In particular: i) Local and national authorities, first aid workers, humanitarian staff, civil society organizations should receive relevant training and instructions about Human rights protection in case of disaster; ii) Local communities knowledge should be recognized and highlighted; iii) The role of media should be guided to make sure that disaster's victims are treated with dignity and that their information and privacy rights are respected.

#### **11) The access to Justice for disaster victims at the national level**

The access to justice for disaster victims should be facilitated, especially removing existing barriers in domestic legal frameworks or judicial institutions.

Disaster's victims should have access to relevant legal assistance, guarantees and effective right of appeal.

People should be informed on rights subject to violation in case of disasters but also on emergency procedures and resources available to protect their rights. Judicial institutions should be prepared to deal with this type of petition.

Domestic law should make liability systems and links between disaster occurrence and people's rights protection clear and objective in case of disaster.

In case of disaster, States should guarantee the respect and effectiveness of decisions ruled by Courts through judicial and administrative procedures related to Human rights. They should also set up a reasonable time limit to rule and enforce these decisions.

Judicial institutions and processes should be adapted considering, especially, the very particular situation, needs and suffering of the disaster and environmental damages victims.

### **12) Evacuation decisions during disasters**

Evacuations should be done respecting dignity and security conditions as well as Human rights of displaced persons, particularly for vulnerable people such as disabled, children and elderly.

Displaced persons should have the right for a freely agreed and informed return, within conditions that respect their right to health and human dignity.

### **13) The role of States dealing with internally displaced persons**

States should systematically incorporate into their legal and institutional disasters' frameworks the 1998 UN Guiding Principles on Internal Displacement.

States should take measures to prevent and manage these displacements.

States should develop information; training and participation policies in order to make sure displaced persons would have access to information related to their rights.

Displaced persons should be able to participate to all decisions procedures linked their environmental displaced persons' condition.

### **14) The adaptation of the migration legal framework to take foreign displaced persons situation into account after the disaster**

States should adapt their migration policies and laws to integrate external displacements management and recognize the environmental displaced persons' legal status. They should develop a legal and institutional framework to respond to external displacements in the scope of reception, protection, respect and promotion of displaced persons human rights.

Considering the growing number of nuclear power plants, the specificity, the seriousness and the long term effects on human health and the environment of nuclear disasters, international negotiations within the 2015 Sendai Conference must not ignore the utmost issues resulting from nuclear disasters.

We recommend that nuclear international conventions should be completed and reinforced by considering human rights requirements.

We also recommend the adoption of an international agreement to convert the International Commission on Radiological Protection (ICRP) in an UN body.

States should give priority to the right to health and future generations protection within the management of nuclear disasters.

In this way there is a special recommendation concerning nuclear disasters and human rights that was adopted in Waseda University, Tokyo, by the International Centre on Comparative Environmental Law on October 15<sup>th</sup>, 2014, as a contribution to Sendai 2015 negotiation process.

## **15) Warnings**

It is a duty to each State to reduce the risk of disasters by taking risk assessments, recollection and dissemination of risk and past lost information and installation and operation of early warning systems.

States should emphasize the guarantee on impartiality of regulation authorities and the independence and progressive excellence of the early warning systems.

Even though one must stress prevention and resilience actions, liability must figure in the post-Hyogo framework, taking into account the role of the State, local agencies, bodies and their scientific experts, responsible for early warnings.

It is necessary to adopt a complex and systemic conception of warning capable of integrating early and immediate warnings, as well as the regulation of informal warnings.

## APPENDIX

### UNIVERSAL DECLARATION ON ENVIRONMENTALLY-DISPLACED PERSONS<sup>1</sup>

**We... [...]**

Aware that the future and very existence of humanity are inseparable from its environment, which continues to deteriorate at an increasing rate,

Bearing in mind the causes and likely consequences of this degradation such as climate change and/or biodiversity loss, drought, desertification, deforestation, soil erosion, epidemics, armed conflicts, major infrastructure and, more generally, natural and technological hazards,

Noting that the victims of these phenomena and disasters are confronted with the destruction of their environment, which may result in the deterioration of their health, compromising the very essence of their right to life,

Considering that the causes of displacement are unfair and the consequences of environmental degradation undermine human dignity and affect particularly deprived people,

Considering that environmentally-displaced persons are those individuals, families, groups and populations confronted with a sudden or gradual environmental disaster that inexorably affects their living conditions, forcing them to leave, at the outset or throughout, their usual life places,

Considering further that forced displacement is as temporary or permanent displacement made inevitable by the environmental disaster, either within a State or from the State of residence to one or more receiving States,

Asserting firmly that the protection of environmentally-displaced persons should be based on respect for international human rights law,

#### **Proclaim:**

1. The principle of solidarity whereby States, other public authorities and private actors must do their utmost to accommodate environmentally-displaced persons and contribute to the necessary financial efforts.
2. The obligation of the international community to provide assistance to States stricken by ecological disasters.
3. The principle of common but differentiated responsibilities whereby States, according to their respective capacities, have a shared responsibility in terms of reception of environmentally-displaced persons.

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<sup>1</sup> Prepared by the International Centre of Comparative Environmental Law (CIDCE), August 29, 2014.



4. The right to information and the right to participation of displaced persons and persons threatened with displacement.
5. The right to displacement, within or outside the home State, of any person confronted with a sudden or gradual environmental disaster that inexorably affects her/his living conditions. This right also entails the right not to be displaced by public authorities without her/his consent, except in cases of grave and imminent danger.
6. The rights of environmentally-displaced persons to be rescued, to water, subsistence food aid, health care, housing and respect for family unity.
7. The rights of environmentally-displaced persons to recognition of their juridical personality, to replacement of the documentation necessary to fully enjoy their rights, and to preservation of their civil and political rights. Inter-State environmentally-displaced persons also have the right to retain the nationality of their State of origin.
8. The rights of environmentally-displaced persons to earn a living by working, to education, training and maintenance of their cultural specificities. Environmentally-displaced persons are also entitled to respect for their property, as well as to assistance in the transport of movable possessions of primary interest and of pets to the temporary accommodation.
9. The right of environmentally-displaced persons to return, under strict conditions of safety, dignity and without risk to health, to their place of origin when it becomes again habitable. A displaced person cannot be forced to return to her/his usual life place against her/his will.
10. The obligation of States to ensure that environmentally-displaced persons exercise their rights without any discrimination.

**We believe it is urgent to initiate negotiations with a view to adopting an international convention recognizing a legal status for environmentally-displaced persons.**