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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Human rights bodies and mechanisms

Progress report on the research-based report of the Human Rights Council Advisory Committee on best practices and main challenges in the promotion and protection of human rights in post- disaster and post-conflict situations

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I. Introduction

1. In its resolution 22/16, the Human Rights Council requested the Advisory Committee to prepare a research-based report on best practices and main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations. It also requested the Committee to seek the views and inputs of Member States, relevant international and regional organizations, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees, the Office for the Coordination of Humanitarian Affairs, relevant United Nations agencies, funds and programmes, such as the Inter-Agency Secretariat of the International Strategy for Disaster Reduction, the United Nations Children's Fund, the United Nations Development Programme and the United Nations Population Fund, relevant human rights special procedures, as well as agencies and organizations that work in post-disaster and post-conflict situations, and civil society representatives, in order to prepare the above-mentioned research-based report.

2. In its work, the Committee was asked to take into account the work done on the issue by competent United Nations bodies and mechanisms within their respective mandates. A progress report was requested to be submitted to the Council at its twenty-sixth session in June 2014 and a final report at its twenty-eighth session in March 2015.

3. At its eleventh session, in August 2013, the Committee established a drafting group tasked with the drafting of the report and designated the following experts as members of the drafting group: Latif Hüseyinov, Katharina Pabel, Cecilia Rachel V. Quisumbing (Rapporteur), Anantonia Reyes Prado (Chair) and Imeru Tamrat Yigezu, as well as Chung Chinsung and Vladimir Kartashkin, whose terms ended on 30 September 2013. Subsequently, Kaoru Obata and Ahmer Bilal Soofi also joined the drafting group. At its twelfth session in February 2014, the Committee decided to appoint Ms. Reyes Prado as Rapporteur and Mr. Hüseyinov as Chairperson of the drafting group. At the same session, the Committee recommended that the Human Rights Council extend the time schedule envisaged, to allow for better informed work by recirculating the questionnaires to seek the views and inputs of the various stakeholders, and that the Advisory Committee be requested to submit a progress report to the Human Rights Council at its twenty-seventh session. In its decision A/HRC/26/40, the Council granted the Committee's request for additional time. The Rapporteur of the drafting group subsequently prepared a draft report, which was considered and endorsed by the drafting group in the period between the twelfth and thirteenth sessions of the Committee.¹

4. In line with the Council's request to the Committee in resolution 22/16 to seek the views and inputs of various stakeholders, questionnaires were prepared and disseminated by the Committee in September 2013 to all Member States and to representatives of civil society and other stakeholders, requesting information on their experiences, best practices and main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations. As of 28 January 2014, a total of 36 replies had been received in reply to the questionnaires, including 20 replies referring to countries that had experienced post-disaster situations, one which had experienced conflict, eight which had experienced both and seven which did not specify which of those situations had been experienced. A summary of the main issues identified in the responses is included in section V below.

¹ The members of the drafting group are grateful to Véronica Sagastume for her important input during the drafting of the present report.

5. In February 2014, the Committee decided to seek the views of the United Nations agencies, as requested in paragraph 2 of Council resolution 22/16. As of July 2014, no replies have been received from the United Nations agencies.
6. To date, the following main issues have been identified:
 - (a) Humanitarian action needs to take into account legal, social, political, ethical and cultural relations. It is fundamental that the legal framework underlines that the State holds obligations and that individuals and communities hold rights;
 - (b) Rescue, relief and rehabilitation action can be linked to human rights advocacy. However, in practice that does not happen automatically. A human rights-based approach that includes the following principles is therefore necessary in such humanitarian action:
 - (i) Direct and intentional linkage to human rights;
 - (ii) Transparency;
 - (iii) Participation and consultation of those affected and beneficiaries;
 - (iv) Non-discrimination;
 - (v) Special attention given to the needs of vulnerable and marginalized subgroups within the larger set of beneficiaries;
 - (vi) Accountability.
7. Furthermore, a human rights perspective needs to be taken into account prior to disasters and governments need to be aware that they have various responsibilities in the protection of their citizens. It is equally important for affected people to be able to understand that they have rights.

II. Scope

8. The title of Council resolution 22/16, containing the Advisory Committee's mandate, suggests that post-disaster situations are somehow similar to post-conflict situations. The commonality between the two can be found in the fact that both relate to humanitarian crises that require humanitarian action. Moreover, a humanitarian crisis requires a humanitarian response which must be based on a human rights approach. The present report therefore addresses human rights aspects only in such action during post-disaster and post-conflict situations.
9. The prefix "post" might have too broad a meaning and therefore requires limitation in terms of time. For the purposes of the present report, a post-disaster or post-conflict situation would start immediately after a disaster or a conflict happened and would end when basic daily life returns to normal for the affected population. Reflection regarding the meaning of daily life returning to normal is needed, particularly because disasters and conflicts mostly affect vulnerable people. That vulnerability is characterized by inadequate living conditions prior to a disaster or conflict. For that reason, a disaster or conflict exacerbates the already precarious living conditions of those people. In addition, discussions on improving living conditions are needed. Special attention should be paid to the early stage of post-disaster and post-conflict situations, not excluding matters of transitional justice, because humanitarian activities are mainly developed at that stage. In addition, a human rights-based approach must also be adopted in the rehabilitation and

reconstruction stages and in the resettlement processes. Protracted crisis situations also need to be considered.²

10. The above limitation in terms of the scope of the present report does not, however, preclude consideration of the return to normal life, which should be discussed sooner rather than later within the Human Rights Council Advisory Committee in order to frame the principles of human rights that should systematically govern humanitarian activities. In addition, some communities have experienced not only natural disasters and conflicts, but also man-made disasters. Those communities need to be prepared to face man-made disasters, and human rights principles need to be developed in order to address humanitarian crises in any part of the world. Without fully considered action plans, affected and severely disturbed communities cannot react with due regard for human rights. The main objective of the present mandate is therefore to ensure that a human rights perspective is incorporated in humanitarian activities right from the planning stage.

11. Humanitarian activities are, by definition, activities aimed at promoting and protecting human rights. The present report highlights many practices which reflect the successful accomplishment of humanitarian activities in that respect. Experience, however, shows that humanitarian activities, such as rescue, rehabilitation and assistance to affected people may be flawed, and sometimes seriously so, from the viewpoint of human rights. The report therefore also highlights the main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations.

III. Introduction and objectives

12. The mandate for the present study is to incorporate a human rights perspective in the planning of humanitarian activities through the identification of best practices and the main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations, recognizing that humanitarian activities are, by definition, activities aimed at promoting and protecting human rights.

13. The scope of the study covers humanitarian crises and humanitarian activities in post-disaster and post-conflict situations from a rights-based approach.

14. Who is affected? Both directly and indirectly affected people³ are all persons who are adversely affected by a crisis or disaster and who are in need of urgent humanitarian assistance.⁴ In protracted situations, it would seem that people need ongoing humanitarian assistance, not necessarily of the same nature and scope as during the emergency phase. Generally, in post-disaster and post-conflict situations, all people are at risk, but the impact is worse for vulnerable groups: women, the elderly, children, indigenous peoples, minority

² Protracted crisis situations are characterized by recurrent natural disasters and/or conflict, longevity of food crises, breakdown of livelihoods and insufficient institutional capacity to react to the crises. Countries in protracted crisis therefore need to be considered as a special category with particular requirements in terms of interventions by the development community. See www.fao.org/docrep/013/i1683e/i1683e03.pdf.

³ The other category applied to identify affected people is “survivor of an emergency”. That includes those who are injured, from those with critical injuries requiring long-term hospitalization to the walking wounded who may be able to self-treat with basic medication and equipment at home, and those not physically affected, but traumatized by the emergency, including those directly involved, as well as witnesses and local responders. Humanitarian Assistance in Emergencies: Non-statutory guidance on establishing Humanitarian Assistance Centres. See www.gov.uk/government/uploads/system/uploads/attachment_data/file/61221/hac_guidance.pdf.

⁴ See www.who.int/hac/about/definitions/en/.

groups, stateless persons, displaced persons, refugees and persons with disabilities. Hence plans should be put in place to take particular needs into account when responding to emergency situations affecting such groups.

IV. Definitions

15. Experience has demonstrated that conflicts and natural disasters have multidimensional effects on human rights. They affect the rights to life, health and security. Crops and infrastructure are destroyed, which has long-term effects on livelihoods, and access to food and water, education, health care and other basic services, and even access to justice, are affected.

16. Natural disasters⁵ are events brought about by natural hazards that seriously affect the society, economy and/or infrastructure of a region. A natural event could be a flood, earthquake, storm, hurricane or volcanic eruption that causes great damage or loss of life.⁶ Depending on the vulnerability of the population and on local response capacity, natural disasters will pose challenges and problems of a humanitarian nature.

17. A humanitarian crisis is an event or series of events which represent a critical threat to the health, safety, security and/or well-being of a community or other large group of people, usually over a wide area. Armed conflicts, epidemics, famine, natural disasters and other major emergencies may all involve or lead to a humanitarian crisis that extends beyond the mandate or capacity of any single agency.

18. Humanitarian crises can therefore be grouped under the following headings:

- (a) Natural disasters (earthquakes, floods, storms and volcanic eruptions);
- (b) Man-made disasters (conflicts, plane and train crashes, fires and industrial accidents);
- (c) Complex emergencies, when the effects of a series of events or factors prevent a community from accessing its basic needs, such as water, food, shelter, security or health care. Such emergencies can affect millions of people in a great number of countries.

19. Complex emergencies are typically characterized by:

- (a) Extensive violence and loss of life;

⁵ In the 2005 report of the Secretary-General on the transition from relief to development (A/60/89), the expression “natural disasters” was purposely not used as it conveys the mistaken assumption that disasters occurring as a result of natural hazards are wholly “natural”, therefore inevitable and outside human control. Instead, it is widely recognized that such disasters are the result of the way individuals and societies relate to threats originating from natural hazards. The nature and scale of threats inherent in hazards vary. The risks and potential for disasters associated with natural hazards are largely shaped by prevailing levels of vulnerability and measures taken to prevent, mitigate and prepare for disasters. Thus, disasters are, to a great extent, determined by human action, or lack thereof. The expression “disasters associated with natural hazards” should therefore be used, in line with the Hyogo Framework for Action, adopted at the World Conference on Disaster Reduction, held in January 2005 in Kobe, Japan. Natural hazards comprise phenomena such as earthquakes; volcanic activity; landslides; tsunamis; tropical cyclones and other severe storms; tornados and high winds; river floods and coastal flooding; wildfires and associated haze; drought; sand/dust storms; and infestations. See www.who.int/hac/about/definitions/en/.

⁶ ReliefWeb Glossary of Humanitarian Terms. Available from <http://reliefweb.int/report/world/reliefweb-glossary-humanitarian-terms>.

- (b) Displacements of populations;
- (c) Widespread damage to societies and economies;
- (d) The need for large-scale, multifaceted humanitarian assistance;
- (e) The hindrance or prevention of humanitarian assistance by political and military constraints, particularly in post-conflict situations;
- (f) Significant security risks for humanitarian relief workers in some areas.⁷

20. Humanitarian action is assistance, protection and advocacy action undertaken on an impartial basis in response to human needs resulting from complex political emergencies and natural hazards.⁸ Humanitarian assistance is aid to a stricken population that complies with the basic humanitarian principles of humanity, impartiality and neutrality. Assistance can be divided into three categories based on the degree of contact with the stricken population: direct assistance is the face-to-face distribution of goods and services; indirect assistance is at least one step removed from the population and involves such activities as transporting relief goods or relief personnel; and infrastructure support, which involves providing general services that facilitate relief, such as road repair, airspace management and power generation, but that are not necessarily visible to or solely for the benefit of the stricken population.⁹

21. Internal displacement is the involuntary movement of people, inside their own country, after having been forced or obliged to flee or to leave their homes or places of habitual residence. The movement may result from a variety of causes, including natural or man-made disasters, armed conflict or situations of generalized violence.¹⁰

22. Technological or man-made disasters are technological or man-made hazards, such as complex emergencies or conflicts, famine, displaced populations, industrial accidents and transport accidents,¹¹ which are caused by humans and occur in or close to human settlements. They can include environmental degradation, pollution and related accidents.

23. The Office of the United Nations High Commissioner for Human Rights considers that when human rights violations are a consequence of conflict situations,¹² the sequence of events is as follows:

- (a) Human rights violations as causes of conflict;
- (b) Humanitarian crises;
- (c) New violations occur as a result of conflict and humanitarian crises;
- (d) Pre-existing human rights issues are exacerbated;
- (e) Human rights promotion and protection are an objective of peace agreements.

24. The Office considers that when human rights violations are a consequence of natural disasters, the sequence of events is as follows:

- (a) Natural disaster;

⁷ See <http://humanitariancoalition.ca/info-portal/factsheets/what-is-a-humanitarian-crisis>.

⁸ ReliefWeb Glossary of Humanitarian Terms. Available from <http://reliefweb.int/report/world/reliefweb-glossary-humanitarian-terms>.

⁹ See www.who.int/hac/about/definitions/en/.

¹⁰ See www.unhcr.org/4c2355229.pdf.

¹¹ See www.ifrc.org/en/what-we-do/disaster-management/about-disasters/definition-of-hazard/.

¹² See www.ohchr.org/Documents/Publications/HR_in_armed_conflict.pdf.

- (b) Humanitarian crisis;
- (c) Pre-existing human rights issues are exacerbated and new violations occur as a result of the disaster;
- (d) Human rights inform planning and delivery of humanitarian response;
- (e) Human rights are integrated into emergency preparedness plans.

V. Current situation

A. International legal framework

25. There is an international human rights legal framework, consisting of specific declarations and treaties, to protect people affected by natural disasters and conflicts. As protection is not limited to survival security in an emergency situation, all relevant guarantees with regard to civil and political, as well as economic, social and cultural rights, will contribute to ensuring the dignity of the people affected. Taking account of the fact that human rights violations increase in post-disaster and post-conflict contexts, all humanitarian activities are based on the main global legal framework, the International Bill of Human Rights, which consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the two optional protocols thereto.

26. International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not participating in the hostilities and restricts the means and methods of warfare.¹³ The Geneva Conventions of 1949 and the Hague Conventions of 1899 and 1907 are the main examples.

27. Human rights principles and standards must be prioritized during the implementation of humanitarian assistance. The principles include: universality (human rights must be afforded to everyone, without exception); indivisibility (human rights are indivisible and interdependent); participation and consultation (people have the right to participate in decisions to protect their rights and their opinions must be taken into account); non-discrimination (human rights must be guaranteed without discrimination of any kind, including policies and practices which may have a discriminatory effect); accountability (mechanisms of accountability should be created for the enforcement of rights); and transparency (governments and humanitarian partners, either national or international, must be open about all information and decision-making processes related to rights).

B. International humanitarian aid: legal framework and mechanisms

28. Particular attention has been drawn to humanitarian aid and assistance provided in response to emergencies caused by conflicts and disasters around the world. That attention has led to the development of several specialized mechanisms and initiatives, among which are:

- (a) The humanitarian policies, agreements, guidelines, documents and tools for humanitarian assistance of the Inter-Agency Standing Committee on Post-War and Disaster

¹³ See www.icrc.org/eng/war-and-law/.

Reconstruction and Rehabilitation,¹⁴ such as the Humanitarian Charter and Minimum Standards in Disaster Response, the Guidelines on Mental Health and Psychosocial Support in Emergency Settings, the Gender Handbook in Humanitarian Action, the Operational Guidelines on Human Rights and Natural Disasters and the Guidelines for Gender-based Violence Interventions in Humanitarian Settings;

(b) The Sphere Project, a voluntary initiative that brings a wide range of humanitarian agencies together around a common aim, that of improving the quality of humanitarian assistance and the accountability of humanitarian actors to their constituents, donors and affected populations. Established in 1997, the Sphere Project is not a membership organization. Governed by a Board composed of representatives of global networks of humanitarian agencies, the Sphere Project is a vibrant community of humanitarian response practitioners;¹⁵

(c) The standards, training, code of conduct and certification of the Humanitarian Accountability Partnership, established in 2003;¹⁶

(d) The Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters;¹⁷

(e) The Global Humanitarian Platform, a mechanism established in 2006 to increase coordination between the United Nations and non-United Nations humanitarian organizations;

(f) The 2007 Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines) and the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief (30 November 2007);

(g) The 2009 manual entitled *International Law and Standards Applicable in Natural Disaster Situations* of the International Development Law Organization;

(h) The *Minimum Inter-Agency Standards for Protection Mainstreaming*, published by World Vision in 2012;¹⁸

(i) The Food Assistance Convention, which entered into force on 1 January 2013;

(j) The Warsaw international mechanism for loss and damage associated with climate change impacts, adopted by the Conference of the Parties to the United Nations Framework Convention on Climate Change at its nineteenth session, in November 2013. The mechanism was established under the Cancun Adaptation Framework to address loss and damage associated with impacts of climate change, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change.¹⁹

29. With regard to international humanitarian law, the International Committee of the Red Cross, established in 1863, and the founding member of the International Federation of

¹⁴ Established in June 1992 in response to General Assembly resolution 46/182 on the strengthening of humanitarian assistance.

¹⁵ See www.sphereproject.org/.

¹⁶ See www.hapinternational.org/.

¹⁷ Available from www.unisdr.org/files/1037_hyogoframeworkforactionenglish.pdf.

¹⁸ Available from www.humanitarianresponse.info/topics/procap/document/world-vision-minimum-inter-agency-standards-protection-mainstreaming-march.

¹⁹ Available from http://unfccc.int/files/meetings/warsaw_nov_2013/in-session/application/pdf/fccc.cp.2013.l.15.pdf.

Red Cross and Red Crescent Societies, works worldwide to provide humanitarian help for people affected by conflict, internal disturbances and other situations of internal violence, and to promote the laws that protect victims of war. As an independent and neutral organization, its mandate stems essentially from the Geneva Conventions of 1949.²⁰

C. International non-governmental organizations concerned with humanitarian aid and assistance

30. Many non-governmental organizations (NGOs) have experience in providing humanitarian aid and assistance worldwide. Among the main international NGO coalitions and platforms currently working on the coordination of humanitarian aid worldwide are:

(a) The International Council of Voluntary Agencies, a global network of non-governmental organizations whose mission is to make humanitarian action more principled and effective by working collectively and independently to influence policy and practice;²¹

(b) ACT Alliance – Action by Churches Together, a coalition of more than 140 churches and affiliated organizations working together in over 140 countries to create positive and sustainable change in the lives of poor and marginalized people, regardless of their religion, politics, gender, sexual orientation, race or nationality, in keeping with the highest international codes and standards;²²

(c) InterAction, which has more than 180 member organizations working in every developing country. Members are faith-based and secular, large and small, with a focus on the world's most poor and vulnerable populations. InterAction is the largest alliance of United States-based private voluntary organizations and partners identified as associate members.²³

D. Africa: regional institutions and mechanisms concerned with humanitarian aid and assistance

31. Africa Humanitarian Action was established in 1994 and since that date has provided life-saving humanitarian assistance to refugees, internally displaced persons and local communities across Africa.²⁴

32. The Programme of Action for the Implementation of the Africa Regional Strategy for Disaster Risk Reduction (2006–2015)²⁵ sets out actions which are implemented by operational mechanisms at three levels: regional, subregional and national, as described below.

1. Regional level implementation and coordination

33. Regional level implementation and coordination is done by:

(a) The African Union (AU) Commission, which facilitates and coordinates the implementation of the Africa Regional Strategy for Disaster Risk Reduction, the

²⁰ See www.icrc.org/eng/who-we-are/index.jsp.

²¹ See <https://icvanetwork.org/mandate.html>.

²² See www.actalliance.org/about.

²³ See www.interaction.org/.

²⁴ See www.africahumanitarian.org/index.php?option=com_content&view=article&id=135&Itemid=352.

²⁵ Available from www.unisdr.org/files/13655_POAinEnglishadoptedinNairobi16April%5B1%5D.pdf.

Programme of Action and the Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters;

(b) The Africa Regional Platform for Disaster Risk Reduction, which is facilitated by the United Nations International Strategy for Disaster Reduction, functions as the primary regional mechanism to support the implementation of disaster risk reduction strategies and programmes at regional, subregional and national levels, to monitor their progress and facilitate coordination and information-sharing between governments, subregional organizations and United Nations agencies;

(c) Periodic high-level meetings such as the African Ministerial Conference on Disaster Risk Reduction and the African Ministerial Conference on the Environment, which ensure regional consensus on key issues on disaster risk reduction;

(d) The AU Commission will reconstitute the Africa Working Group on Disaster Risk Reduction to provide coordination and technical support to member States;

(e) Joint planning and programming of the activities to implement the approved Programme of Action, which are undertaken by AU member States, regional economic communities, the New Partnership for Africa's Development (NEPAD) Planning and Coordinating Agency, United Nations agencies, development partners, civil society organizations and other relevant institutions.

2. Subregional level implementation

34. Subregional level implementation and coordination is achieved as follows:

(a) Regional economic communities focus on providing strategic guidance to their member States, facilitating the implementation of the subregional strategies and programmes in line with the Africa Regional Strategy for Disaster Risk Reduction, the Programme of Action and the Hyogo Framework for Action within their subregions, and coordination, particularly in respect of inter-State initiatives;

(b) Regional economic communities also promote the implementation of the above-mentioned strategies and programmes by establishing subregional disaster risk reduction platforms and focal points, and preparing programmes for resource mobilization to support national and subregional efforts;

(c) With support from the AU Commission, the NEPAD Planning and Coordinating Agency, the International Strategy for Disaster Reduction system, specialized agencies and civil society, regional economic communities facilitate the mainstreaming of disaster risk reduction into sustainable development initiatives.

3. National level implementation and coordination

35. National level implementation and coordination is achieved as follows:

(a) AU member States have the primary responsibility to operationalize the Africa Regional Strategy for Disaster Risk Reduction, the Programme of Action for Disaster Risk Reduction and the Hyogo Framework for Action;

(b) Multi-stakeholder national platforms or national committees, including ministries dealing with disaster risk reduction such as ministries of the interior, health, education, urban development, the environment, finance and planning, civil society organizations, the media, the private sector, and scientific and educational institutions contribute skills and knowledge to mainstream disaster risk reduction and climate change adaptation into multisectoral development planning and implementation processes;

(c) Programmes or activities deriving from the Africa Regional Strategy for Disaster Risk Reduction and the Hyogo Framework for Action are implemented with clear linkage to, or within the scope of, existing national development planning processes and other development assistance frameworks and strategies, such as the United Nations Development Assistance Framework and poverty reduction strategy papers.

E. Asia-Pacific: regional institutions and mechanisms concerned with humanitarian aid and assistance

36. The Asian Disaster Reduction and Response Network was established in 2003. Currently it has 45 NGO members from Asia, which work together through various channels including websites, training programmes, exchange visits and joint field projects. Its mission is to promote coordination, information-sharing and collaboration among NGOs and other stakeholders for effective and efficient disaster reduction and response in the Asia-Pacific region.²⁶

37. The Asian Disaster Preparedness Center, established in 1986, is an independent NGO. It works in a number of countries in Asia deploying disaster risk management information and systems to reduce local, national and regional risk across the Asia-Pacific region. To achieve its aims in disaster risk reduction, it works closely with local, national and regional governments, governmental and non-governmental organizations, donors and development partners.²⁷

F. Europe: regional institutions and mechanisms concerned with humanitarian aid and assistance

38. The Emergency Response Coordination Centre, operated within the European Commission Humanitarian Aid and Civil Protection department, was set up in 2013 to support a coordinated and quicker response to disasters both inside and outside Europe, using resources from 31 countries participating in the European Union Civil Protection Mechanism.²⁸

G. Latin America: regional institutions and mechanisms concerned with humanitarian aid and assistance

39. Several intergovernmental bodies have been established in Latin America to strengthen disaster risk reduction as part of action taken to uphold human rights and ensure comprehensive approaches, such as:

(a) The Inter-American Network for Disaster Mitigation, within the Organization of American States (OAS), which was set up in response to the need to:

(i) Assist OAS member States with the sharing and exchange of information, knowledge and experience on natural hazard risk management;

(ii) Strengthen the planning and disaster management activities of OAS in order to respond more effectively to more frequent natural disasters that impact the hemisphere;

²⁶ See www.preventionweb.net/english/professional/contacts/v.php?id=1516.

²⁷ See www.adpc.net/igo/.

²⁸ See http://ec.europa.eu/echo/about/ERC_en.htm.

- (iii) Provide for a mechanism to coordinate efforts and promote collaboration among the organizations of the inter-American system, regional intergovernmental organizations, international organizations, donors, financial institutions and national agencies responsible for the coordination of natural disasters management;
 - (iv) Support the follow-up and implementation of the decisions of the Inter-American Committee on Natural Disaster Reduction;
 - (v) Coordinate the implementation, monitoring and periodic revision of the Inter-American Strategic Plan for Policy on Vulnerability Reduction, Risk Management and Disaster Response;²⁹
- (b) The Working Group on Risk, Emergency and Disasters in Latin America and the Caribbean, within the Community of Latin American and Caribbean States, which is based on the framework of General Assembly resolution 46/182 and has functioned in Panama since 2003, providing a platform for regional coordination on humanitarian issues.³⁰ In addition, there is the Caribbean Disaster Emergency Management Agency;³¹
- (c) The Meeting on Emergency Response Mechanisms to Natural Disasters within the Ibero-American General Secretariat. The Ibero-American General Secretariat is an association of free, sovereign and equal nations, capable of helping build a future based on democracy and development while maintaining a shared ethnic, cultural and linguistic diversity. The Ibero-American General Secretariat is composed of 22 Spanish- and Portuguese-speaking countries in Latin America and the Iberian Peninsula;³²
- (d) The Central American Coordination Center for Natural Disaster Prevention (CEPREDENAC), which has a programme to support the implementation of the Central American Policy for Comprehensive Risk Management and to strengthen national risk management systems in Central America. The member States of CEPREDENAC are Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The Dominican Republic is in the process of joining the organization.

H. National humanitarian aid: legal frameworks and mechanisms

40. State obligations regarding humanitarian assistance remain the same as far as human rights are concerned: to respect, protect and fulfil. Since governments are responsible for public administration, they are therefore also responsible for meeting those obligations and should not use humanitarian assistance for political purposes. Likewise, political parties should not take advantage of the need generated by emergencies to attempt to gain popularity among the public. Political patronage should be avoided in post-disaster and post-conflict situations because, as noted above, the affected populations, like any other individual or community, continue to have rights, including the right to be impartial consumers and the right to vote.

41. The following paragraphs reflect some of the information sent by Member States in response to the questionnaires, with regard to their internal legal frameworks and mechanisms for responding from a rights-based approach to emergencies resulting from disasters and conflicts.

²⁹ See www.oas.org/dsd/Nat-Dis-Proj/Natdesproject/IADM.htm.

³⁰ See www.redhum.org/asuntos_redlac.

³¹ See www.cdema.org/.

³² See <http://segib.org/>.

42. The Government of Slovakia is working to ensure that the Act on State Security during Wartime, Hostilities, Martial Law and State of Emergency enables the distribution of vitally important products and goods supplies to citizens affected by crises.

43. Act No. 1523 in Colombia stipulates that the provision of humanitarian assistance must take account of the principles of quality, timeliness, relevance and effectiveness. Article 3 of the Act provides that, in the situations of disaster and danger covered by the Act, all individuals will be given the same support and treatment when receiving humanitarian assistance. More principles are detailed in the Colombian manual on the standardization of humanitarian assistance.

44. In Chile, the National Civil Protection System is based on guarantees provided in the Constitution. In order to fulfil the guarantees concerning disaster response, Chile has enacted several laws and regulations, among which are:

(a) Decree No. 156 of 2002 of the Ministry of the Interior on the National Civil Protection Plan;

(b) Act No. 20,641 on Public Sector Budgets for 2013, which defines and regulates the management of emergency funds in the budget of the Ministry of the Interior;

(c) Circulars Nos. 56 and 218 of 2008 of the Vice-Minister of the Interior;

(d) Act No. 16,282 on preparedness for earthquakes and disasters and the National Civil Protection Plan, which is a tool for risk management in Chile. Under the responsibility of the authorities, the Plan guarantees the protection of all persons in any threatening situation, be it natural or man-made. Operational guidelines are based on the principle of civil protection, under which people are provided with protection and adequate living conditions and surroundings. In order to ensure transparency and accountability in disaster responses, Decree No. 156 of 2002 of the Ministry of the Interior establishes mechanisms and instruments for the request and delivery of essential goods and the beneficiaries in the process of recovery and reconstruction. The process is undertaken by the various State bodies involved, such as municipalities, and specifically by the sectoral bodies that are relevant to the event in question.

45. Mexico, as part of its strategy to respond to humanitarian crises, has adopted the General Civil Protection Act, which provides for the establishment of national mechanisms for disasters from the viewpoint of integrated risk management, known as the National System of Civil Protection. The System comprises all the agencies of the federal public administration, civil protection systems of the states, municipalities and delegations, volunteers, neighbourhood organizations and civil society groups, fire departments, representatives of the social and private sectors, including the media, as well as research, education and technological development centres. Since all the government agencies are part of the System, universal civil protection policies are defined within the framework of a National Civil Protection Programme, which sets out the specific commitment of all public officials to take responsibility for ensuring human security by preventing disasters and effectively managing emergencies from different standpoints. That facilitates the protection of children, women, indigenous communities, the elderly, persons with disabilities, communities with fewer than 5,000 inhabitants, residents of slums with no services and few economic resources, migrants and day-labourers in agriculture, among others. In addition, Mexico has given the municipalities primary responsibility for surveillance and the enforcement of security measures under the national budget. If a crisis exceeds the capacity of a municipality for financial or operational response, the State agency or relevant federal district is competent in that regard. In such a case, the municipality must inform the relevant federal agencies, which act in accordance with established programmes that ensure the immediate transfer of resources and effective accountability from disaster response and recovery, and vice versa.

46. In addition to the positive examples provided above, it is equally important for national laws to be enacted for disaster prevention, which should make provision for specific allocations in the national budget. A tangible expression of the commitment of States to respecting human rights in humanitarian assistance is the allocation of specific funds in their budgets, earmarked for disaster risk reduction. Evidence abounds on the immediate and direct effects that natural disasters and conflicts have on the economy of communities and countries, in addition to their long-term impact. In most disasters, the bulk of the immediate damage comes from destroyed assets, such as buildings, infrastructure, inventories and crops. Disasters also generate short- and long-term losses in economic activity and income in the affected area, as people and companies lose their means of production and access to markets. Economic activity picks up gradually throughout the years of reconstruction, starting with emergency response and humanitarian assistance. Capital assets can be regenerated through reconstruction investment, which generates income as the work progresses. Climatic disasters such as storms and droughts have, according to one study, a moderate but negative permanent impact on income growth.³³

I. Recommendations of the Universal Periodic Review related to humanitarian action

47. Over twenty specific recommendations have been made in the context of the Universal Periodic Review³⁴ in relation to humanitarian action in the context of natural disasters. They relate primarily to improving disaster risk reduction and to ensuring an appropriate response to emergencies, given the vulnerability of certain countries (Bangladesh, Dominica, El Salvador, Haiti, Myanmar, Jamaica, Pakistan, Palau, Philippines, Tuvalu, Vanuatu and Viet Nam).

48. Recommendations addressed to the United States of America urged it to increase its development aid, particularly assistance in cases of natural disasters, and to take positive steps with regard to climate change. Kuwait was requested to continue its pioneering role in humanitarian assistance during natural disasters and Cuba was asked to share its experience and best practices in the prevention of and response to hurricanes and other natural disasters.

49. Seven recommendations relate to post-conflict situations and were addressed to France (to continue implementing the national plan on women, peace and security), the Democratic Republic of the Congo, Liberia, Nepal, the Philippines and Sri Lanka (to protect children's and women's rights, ensure women's participation in the post-conflict, reconstruction and peacebuilding processes and improve access to education, especially in the post-conflict and underdeveloped areas).

VI. Human rights aspects of humanitarian action: good practices and challenges

A. Vulnerable groups

50. All three phases of humanitarian aid in post-disaster and post-conflict situations — rescue, relief and recovery — are based on the human rights principles of protection, guarantee and respect. Given that the actions of rescue, relief and recovery depend on the

³³ See www.unescap.org/stat/data/syb2011/II-Environment/Natural-disasters.asp.

³⁴ See www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx.

specific conditions of each context, humanitarian actions sometimes result in practices that may infringe or violate the human rights of the affected people. For that reason, emergency preparedness and humanitarian aid must take a human rights-based approach.

51. All people can be at risk and can be affected by the negative impact of disasters and conflicts, but their vulnerability depends on their social, economic, political, cultural and ethnic positions in society. Humanitarian action should therefore focus on women, children, the elderly, persons with disabilities, indigenous people, minorities and lesbian, gay, bisexual and transgender (LGBT) persons. Affected populations are rights-holders and not mere beneficiaries of charitable action.

52. Discrimination on the basis of gender increases the vulnerability of women and girls in emergency, post-disaster and post-conflict situations. Protection activities established by national and international stakeholders should adopt a holistic approach to address gender discrimination from an institutional perspective in order to avoid limiting interventions to specific activities that will only respond partially to the problem. Women and girls must be one of the highest priority groups for humanitarian aid, relief and recovery. Special protection has to be considered during the process of planning the response to disasters and consequent humanitarian aid. Women's participation in decision-making concerning humanitarian aid must also be promoted and guaranteed. Mechanisms to prevent gender-based violence, sexual harassment and rape have to be put in place. In conflict situations such as internal armed conflicts and wars, the humanitarian aid and reconciliation processes need to take into account traditional practices of women being considered spoils of war. In addition, indigenous women and women from minority communities require special protection against gender-based discrimination and racist attitudes. Security Council resolution 1325 on women, peace and security sets out the international framework in that regard.³⁵

53. UNICEF recognizes that when an emergency strikes, be it a sudden onset natural disaster or an armed conflict, children require special protection to ensure their safety and well-being.³⁶ The Core Commitments for Children in Humanitarian Action constitute the central policy of UNICEF on upholding the rights of children affected by humanitarian crises. Girls and boys are right-holders and also need to be involved in the humanitarian assistance process.

54. The elderly are another of the groups that is most affected during disasters and conflicts. There is a need to understand that disabilities, displacement, diseases, malnutrition, discrimination and insecurity worsen the living conditions of the elderly during post-conflict and post-disaster situations. The needs of the elderly should therefore be taken into account in immediate and long-term humanitarian relief and assistance, as well as in humanitarian policies and guidelines.

55. Persons with disabilities are disproportionately affected by disaster and conflict situations because many of the resources for humanitarian aid, shelter and assistance are inaccessible to them. In addition, experience has demonstrated that there is a direct correlation between discrimination against persons with disabilities and insufficient resources. Humanitarian aid, rescue, relief and rehabilitation should therefore meet the needs of the whole population and include the participation of persons with disabilities in all stages of emergency response. Disability in post-disaster and post-conflict situations is

³⁵ See www.usip.org/gender_peacebuilding/about_UNSCR_1325. For information on good practices in humanitarian aid, both in post-disaster and post-conflict contexts, see www.actalliance.org/stories/violence-against-women-and-girls.

³⁶ See www.unicef.org/protection/57929_62178.html.

increased in the affected communities because some people are injured and need specialized assistance and resources, such as transportation and medical support.³⁷

56. Indigenous peoples and minorities have traditionally been excluded from development. Their settlements are mainly in rural areas, which are prone to natural hazards, and they often live in significant poverty. Both situations place them at risk in disasters and conflicts. It is important to recognize, better understand and increase indigenous knowledge about mechanisms established for disaster risk reduction.³⁸

57. There is a need to devote specific attention to the LGBT population, particularly in post-disaster and post-conflict situations. Stigmatization and discrimination on the basis of sexual orientation increase gender-based violence in post-conflict and post-disaster situations, negatively affecting LGBT persons in the provision of food assistance, shelters and humanitarian aid.

B. Lessons learned

1. Participation of affected communities and people

58. Humanitarian assistance needs to take into account legal, social, political, ethical and cultural relations. In the legal framework, it is essential to emphasize that the State is the duty bearer, and people and communities are rights-holders and not mere recipients of aid. That should be the central theme in both formal and informal education processes linked to disaster prevention and reduction, rehabilitation and reconstruction. Some initiatives that could be put in place in that regard are:

- (a) Community participation programmes, which can be developed with rural and indigenous communities, including microzonation with the involvement of concerned communities;
- (b) Specific school safety plans should be developed;
- (c) The cultural patterns that allow women and men to participate equally in decision-making on health and other issues in the home and the community need to be taken into account.

59. It is essential to develop measures to help rebuild local communities following their destruction owing to a disaster, when residents are forced to live in a totally new environment, such as a temporary housing unit. It should be highlighted that, although the affected populations are expected to build a new community themselves, not all of them can adjust to a new environment.

60. People as human rights-holders should have the right to participate in the planning of any policies relating to their resettlement, as well as the evaluation of those policies. The participation of victims and affected people ensures the transparency of administration and contributes to the sustainability of humanitarian aid, relief and recovery actions. Local authorities should be involved in the early stages of relevant consultations in order to avoid creating a communication gap with beneficiaries.

61. The role played by the private sector and civil society also needs to be taken into account. With regard to the role of companies, States can promote prior agreements in order to avoid price speculation and shortages, and can also buy from local producers in order to improve the local economy. Rising food prices impede the access to food of millions of

³⁷ See www.un.org/disabilities/documents/reports/iddr2013_%20panelreport.pdf.

³⁸ See www.unisdr.org/files/8853_IKPolicyNote.pdf.

people around the world. The rise has little to do with the price charged by the producers, who continue to gain very little from the sale of their crops, thus perpetuating their poverty and worsening their situation in emergencies.

2. Gender focus

62. One best practice identified from the responses received to the questionnaires was to consider gender issues in disaster responses. For example, men and women need different personal hygiene kits, food and water supplies.

63. Shelters should have separate restrooms for men and women, and a private room where women can undertake intimate cleaning. A gender-based approach and mainstreaming should consider the specific needs of women. For example, there should be more toilets constructed for women, given that women usually need to spend more time in toilets and often take their children with them. In addition, the so-called “code of conviviality” established that kitchen brigades are mixed in order to promote gender equity.

64. Mechanisms should also be in place to protect against gender-based violence and rape. Women and girls often are victims of rape and sexual harassment, and are at a high risk of sexual assault, for instance, when collecting water. Women, girls, the elderly and children are also at risk of domestic violence. Centres offering psychological assistance for people affected by domestic violence should be in place. As part of humanitarian aid, consideration should be given to the need for shelters for women and child survivors of violence.

65. It is important to involve women in the delivery of and arrangements for humanitarian aid supplies in order to avoid preferential treatment towards men and to ensure women’s empowerment in the community. Women should not have to bear the burden of caring for their families alone; they should not have to give sexual favours in order to secure food or other assistance; and they should be given as much access to services and assistance as men, especially since it is often women who take care of the needs of children and elderly family members, in addition to their own.

66. Secure play areas should be put in place for children and their parents in order to encourage solidarity and provide emotional support to affected people.

67. Thematic guidelines need to be developed taking into account the special needs of women, children and persons with disabilities. With regard to children, special attention should be given to former child soldiers and victims of any form of violence.

3. Respect for cultural values

68. Provision of food and clothes should take into account traditional and cultural practices. There is also a need to increase the knowledge of indigenous peoples about support and resilience, which are key for the recovery of the affected people’s livelihoods in their own territories or new ones.

69. Humanitarian kits that respond to cultural practices and the needs of the population in terms of food, kitchen, home and cleaning should be developed. Support programmes for nutrition should be designed according to cultural requirements relating to food and the nutritional needs of women, girls, children and targeted populations.

4. Multilevel approach

70. Humanitarian aid is based on legal and operational frameworks at international, regional, national and local levels. Experience and lessons learned should be considered for emergency response planning and implementation. A multilevel approach can facilitate the decentralization of emergency response.

71. Municipal governments should make reasonable efforts to ensure that affected persons are provided with adequate and decent living conditions in shelters. To that end, guidelines on managing shelters should be drawn up and published, identifying areas where special attention is necessary in assisting vulnerable groups, including persons with disabilities.

72. A regional approach should be considered, given that regional organizations and mechanisms often have significant expertise and resources to offer when dealing with disaster situations.

73. Disaster prevention includes action to prevent serious human rights violations and to avoid the historical accumulation of violations of economic, social and cultural rights, including the right to food.

5. Post-conflict dialogue and transitional justice

74. A methodical approach should be adopted that focuses on the importance of bringing armed conflicts to an end and moving to a peacebuilding programme. Establishing a dialogue with the parties to a conflict is part of the reconciliation and peacemaking processes. Representatives of the most vulnerable groups and affected people should be involved in those dialogues.

75. After a conflict, it is extremely important to develop a transitional justice strategy, including reconciliation and reparation mechanisms. A transitional justice strategy is a set of rules, public policies and institutions that are aimed at bringing conflicts to an end and at the same time, ensuring the rights of victims to truth, justice and reparation. Transitional justice consists of both judicial and non-judicial processes and mechanisms that include prosecution initiatives, facilitating initiatives in respect of the right to truth, delivering reparations, institutional reform and national consultations. In that regard, international assistance has to concentrate on the development of national capacity to initiate and lead the process. Disarmament, demobilization and reintegration initiatives should be coordinated with transitional justice processes and mechanisms in a positively reinforcing manner.³⁹

76. By way of illustration, in its response to the questionnaire, the Government of Colombia mentioned the dialogue established with the Revolutionary Armed Forces of Colombia (FARC), various transitional justice measures and the establishment of a truth and reconciliation commission as examples of best practice.

6. Legislation

77. Laws need to be in place for disaster prevention. Their implementation has to be reflected in appropriate budget allocations. States have the obligation to provide the required resources to improve the living conditions of people affected by disasters and conflicts.

78. In some States, national laws include limitations to constitutional rights in several cases, including public disaster. However, it should be highlighted that, even under states of emergency declared after public disasters, States must respect the core human rights and ensure that all national laws respect their own Constitutions, international human rights instruments and the rules contained in the various international declarations on humanitarian assistance.

³⁹ See S/2004/616.

79. Human rights constitute the legal framework of all humanitarian work related to disasters and conflicts. There is no other legal framework to guide such activities. If humanitarian assistance is not based on the human rights framework, there is a risk that the approach adopted will be too limited and may not integrate all the basic needs of the affected people in the wider planning process.

80. States should invest in humanitarian disaster relief in a planned way, avoiding budgetary risks that jeopardize public investment in normal times. The establishment of national funds for recovery and reconstruction could be important initiatives.

81. Local mechanisms for denouncing human rights violations in disaster and conflict situations should be put in place to ensure the safety, security and freedom of the people affected. Complaints and feedback systems can be designed and implemented as participatory processes as well as democratic-based actions.

7. Transparency of administration

82. Systems to ensure the sharing of information between administration and assistance providers at local and regional levels, including fire-fighting agencies and social workers, should be put in place.

83. In some States, systems have been put in place to ensure transparency and accountability. More States are in the process of developing such systems. Examples of such systems were cited by Brazil, Chile, Colombia, Cuba, Ecuador, El Salvador, Italy, Japan, Mexico, Myanmar, Slovakia, Thailand and Uruguay.

8. South-South cooperation (Brazil)

84. As an example of South-South cooperation, a culturally relevant disaster response was implemented in Somalia, where Brazil helped the United Nations Population Fund to distribute veils to women so that they could leave their homes to access health services. Personal care kits were also distributed.

9. Sphere Project (Ecuador)

85. Ecuador has established that the Risk Management Secretariat will be the focal point in Ecuador for the Sphere Project (see para. 28 (b) above).

86. The Sphere Project sets minimum standards for water supply, sanitation and hygiene promotion, food security and nutrition, shelter, settlement and non-food items, and health action.

87. Ecuador has specific programmes for vulnerable groups, including the Manuela Espejo Mission, which addresses the needs for people with disabilities. Under the Ministry of Economic and Social Inclusion, there are programmes that address the specific needs of children and the elderly, and the Ministry of Health deals with the health needs of children, pregnant women and new mothers.

C. Challenges

88. In the rush to provide humanitarian aid and save lives, little attention is often paid to protecting the human rights of people affected by disasters and conflicts. In addition, not much attention is paid to the rights of vulnerable people.

89. Access to water following disasters was identified in the responses to the questionnaires as a significant challenge and was described as fundamental to preventing certain human rights violations, such as rape, as women are very vulnerable when they have

to walk long distances to reach water. In addition, it is often difficult to provide access to a water supply that meets international standards for hygiene and clean water. Women's particular requirements have to be considered in the emergency response.

90. A key issue is that reconstruction efforts are too often neglected. In fact, they are an essential part of recovery.

91. The main challenges in peacebuilding and transitional justice are inadequate funds and the lack of understanding among the international community that resilience of livelihoods is fundamental for peacebuilding.

92. Attention should be paid to preventing domestic violence and gender-based violence. Information and comprehensive assistance should be provided to support women and child survivors of violence both in the emergency areas and in those not affected by disasters or conflicts, for example in host communities. Special attention should also be paid to persons with disabilities, the LGBT community, the elderly and indigenous peoples, taking into account a cultural approach.

93. It is important to avoid political favouritism in order to guarantee relief for all concerned, not just for political supporters, for example. Governments should not use humanitarian disasters for political purposes and opposition parties should not use the needs created by emergency situations to criticize those in power in order to curry favour with the public.

94. Other challenges identified in the responses to the questionnaires include:

(a) Lack of a specific regulatory framework on human rights in disaster situations;

(b) Lack of adequate internalization of the obligations and rights regarding the promotion and protection of human rights in situations of disaster, which is essential for their proper implementation;

(c) Lack of decentralization of policies on disaster prevention.

VII. Main conclusion

95. Rescue, relief and rehabilitation action can be related to human rights advocacy, but that does not happen automatically. A human rights-based approach includes the following principles: direct and intentional linkage to human rights; transparency; participation and consultation of those affected and of beneficiaries; non-discrimination; special attention given to the needs of vulnerable and marginalized subgroups within the larger set of beneficiaries; and accountability.

VIII. Recommendations

96. Member States should remember that full respect of all human rights can ensure adequate protection by humanitarian actions in post-conflict and post-disaster situations. The rights related to basic needs,⁴⁰ physical security and integrity,⁴¹ civil

⁴⁰ Specially related to food, drinking water, shelter, adequate clothing, adequate health services and sanitation.

⁴¹ Protection of the right to life and the right to be free of assault, rape, arbitrary detention, kidnapping, and threats to those rights.

and political protection needs⁴² and other economic, social and cultural protection needs⁴³ must be protected and respected through the design and implementation of specific initiatives and mechanisms at all levels.

97. Approaches that are participatory, gender-based, culturally-sensitive, accountable, anti-discriminatory and comprehensive should be included in all humanitarian aid plans and mechanisms during the rescue, relief and recovery processes. Those programmatic and political issues allow for better application of international human rights standards as well as offering a comprehensive response to crises. Mechanisms for respecting the human rights of the most vulnerable groups of people should be an integral part of disaster preparedness.

98. States should allocate specific funding to emergency response, relief and reconstruction. The allocation of funds for those purposes needs to be prioritized in annual national budgets. In addition, States need to identify resources to meet long-term development needs.

⁴² The rights to religious freedom and freedom of speech, personal documentation, political participation, access to courts, and freedom from discrimination.

⁴³ Access to education, to receive restitution or compensation for lost property and the right to work.