Introduction

The appointment of the first Special Rapporteur (SR) on adequate housing as a component of the right to an adequate standard of living dates back to 2000, when the Commission on Human Rights (CHR) adopted resolution 2000/9 by consensus. 1 In 2007, when the Human Rights Council (HRC) replaced the CHR, the latter extended the mandates of all the former thematic special procedures, including that of this particular SR, 2 specifically, it requested that the SR promote the full realization of adequate housing, identify protection gaps and connect practical solutions and the provision of technical assistance. 3 The first SR appointed by the CHR (and subsequently by the HRC) was Miloon Kothari, drawing upon the interpretation of the right to adequate housing offered by the Committee on Economic, Social and Cultural Rights (CESCR). 4 Specifically, Kothari proposed a broad interpretation of the right to adequate housing based on the indivisibility and universality of human rights, defining it as the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity. 5 During his mandate, he advocated for better support and response from States, focusing in particular on the lack of legislation and implementation of the right to housing and on the issues of homelessness, forced evictions, discrimination, affordability and the human right to water and sanitation. 6

The attention of the first SR was first focused on the link between disasters and the right to housing when he visited Iran in 2004, following the earthquake that shocked the country in December 2003. Specifically, the SR paid a visit to Bam, a city located at the epicentre of the Iranian earthquake which was completely destroyed. He reported that, in disaster-prone areas, the accessibility element of the right to adequate housing is particularly relevant, entailing States' obligations to adopt both prevention and reconstruction measures. 7 The disastrous effects of subsequent natural phenomena such as the Indian Ocean tsunamis of 2004, the South Asia earthquake and United States hurricane of 2005 and the earthquake in Peru of 2007, convinced SR Kothari in his final Report to propose that the next mandate holder further consider, inter alia, the issue of the impact of natural disasters, humanitarian emergencies and climate change on the right to adequate housing. In this regard, he notably underlined that the effect of natural disasters on individuals' right to adequate housing requires the integration of human rights standards into the entire disaster cycle, namely into prevention, relief and rehabilitation efforts. 8

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THE HUMAN RIGHT TO ADEQUATE HOUSING IN POST-DISASTER CONTEXTS*  
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It is indeed a reality that the right to housing can be severely compromised by disasters, through damage and destruction, loss of records, and displacement of individuals, groups and communities. The impact of severe natural phenomena can be devastating: open air shelters, causing the destruction of their homes and property and public infrastructure; disruption or truncation of essential services; and the profound and sometimes even permanent forced displacement from land, home and community. Although wealth and power do not offer immunity from such impacts, it is in recent cases the poor and weakly disengaged persons who are the most affected. The poor usually find themselves in disaster contexts for they usually settle on fragile and exposed land highly susceptible to the effects of disasters. When destructive phenomena strike, their pre-existing vulnerabilities are exacerbated. In the aftermath of disasters, they often halt their attempts to return to their homes officially denied on the grounds that return would be unsafe. In addition, vulnerable victims of disasters are often exposed to grave human rights violations, notably including the right to adequate housing. Their return may be delayed when displaced individuals do not have official proof of a right to live in a given land or home in the first place.

The need to focus on the interplay between disasters and the right to housing is therefore compelling. The urgency of such necessity is enhanced by the increasing prevalence of natural phenomena worldwide that have more devastating effects than ever before; by the likelihood that this trend will continue as a result of climate change, rapid urbanization and population growth; and through the comparatively less experience and guidance available to address issues related to the right to adequate housing in the wake of disasters, compared to post-conflict settings. These are the reasons why, upon appointment as SR to the right to housing, the present author decided to answer the plea of the preceding SR. In the 2008 report, this author notably underlined that both post-disaster situations and climate change were of particular relevance to the SR’s mandate. These themes combined as central in this author’s work, and subsequent reports were devoted to the integration between human rights standards in post-disaster and post-conflict reconstruction processes; to the right to adequate housing in disaster relief efforts; and to the impact of climate change for the fulfillment of the right to adequate housing. The following pages describe and further expound on the three reports mentioned, proceeding in two steps. First, a definition of the right to housing in disaster scenarios is provided. Then, the main consequences stemming from the definitions in terms of obligations incumbent upon States are elaborated. In particular, this contribution focuses on (i) due diligence obligations in the pre-disaster phase, (ii) specific obligations concerning property restitution in the aftermath of disasters and (iii) the issue of discrimination in disaster settings.

Towards a broad notion of the right to adequate housing and property restitution in disaster contexts

The right to housing as a component of the right to an adequate standard of living is clearly recognized in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Pursuant to this provision, States have unambiguous obligations to respect, protect and fulfill the right to adequate housing. This implies that States are collectively implementing the right to housing by taking steps, individually or through international assistance and cooperation, to the maximum of their available resources, with a view to progressively achieving its full realization. The CESCR underlined in its General Comment No. 4 that the right shall be interpreted broadly. In other words, it cannot be simply equated to the right to have a roof over one’s head, but—on the contrary—it must be seen as the right to live in security, peace and dignity. The CESCR identified seven aspects of the right to adequate housing that States should progressively realize, namely: security of tenure; availability of services, material, facilities and infrastructure;
affordability; habitability; accessibility; location; and cultural adequacy. Therefore, housing is not simply a shelter commodity, but rather has an inherent social value.

Although the CESCR was therefore clear in generally expanding the scope of the right to housing, in disaster settings it is too often still looked at from a strict viewpoint, i.e., as simply entailing obligations for States to provide shelter in the aftermath of disasters. Indeed, even though the right to housing has attracted growing consideration in the United Nations (UN) system and doctrine, notably due to the increases in the world population, disparity in standards of living, the phenomenon of homelessness and poverty clusters, so far little attention has been paid to the intricacies of its enjoyment in disaster scenarios. This state of affairs originated from two sequential causes.

First, it has taken time for the human rights implications of disasters to be clearly recognized. According to the Inter-Agency Standing Committee (IASC), natural disasters have traditionally been seen as situations that create challenges and problems mainly of a humanitarian nature, although the CESCR explicitly included victims of natural disasters and people living in disaster-prone areas among the disadvantaged groups that should be ensured some degree of priority consideration in the housing sphere. During the past decade however, there have been important and welcomed shifts in this approach. According to the IASC, it has come to be recognized that human rights protections also need to be provided in these contexts, given that human rights have to be the legal underpinning of all humanitarian work pertaining to natural disasters. Yet, the relative youth of the international community’s interest in the human rights’ implications of disasters has resulted in scarce studies and international guidelines on the issue. This is particularly true for the right to housing.

Second – as anticipated – in disaster contexts, the right to housing has been too often narrowly interpreted (contrary to the opinion expressed by the CESCR in its General Comment No. 4 to broadly construe its contents) which has led on occasions to violations of the right. Existing international guidance has so far made limited reference to the right to housing, or to aspects related to protection. The elaboration of the right to housing in disaster settings therefore often remained at the level of generalities or was addressed with a specific angle. In 2012, the HRC adopted a resolution on the right to adequate housing in the context of disaster settings, which constitutes today the most authoritative international effort to delineate States’ human rights obligations vis-à-vis the right to housing and disasters. Yet, this and other isolated attempts to discuss the right in a more comprehensive manner were seemingly never translated into policies of broad application.

The most worrying consequence of adhering to a strict interpretation of the right to housing is that the impact of calamitous events is usually measured merely in quantitative terms. Although it is true that the number of people affected by disasters are often staggering, the right to housing should also and perhaps primarily be understood in terms of the destruction of social relationships, networks and assets, destruction of home-centred livelihoods built up over many years, and the undermining of complex, multifaceted land tenure rights. Broaderening the scope of the right would allow the recognition that States are not only bound to address the destruction of housing as a physical asset through repair, rehabilitation, and reconstruction, but also to address the destruction of housing as a social asset and are therefore required to establish more multifaceted and longer-term responses based on a deeper understanding of the tenure systems and histories of the affected settlements and in particular of their poorer and marginalized residents. Moreover, a broad understanding of the right to housing in disaster settings would also require recognition in the course of reconstruction and reconstruction, in order to ensure that previously held tenure is not undermined or diminished in any way but is instead, protected and where possible strengthened.
In light of these considerations, a definition of the right to adequate housing in disaster contexts shall comprise the right to live in safety and security, in conditions deemed adequate on grounds of security of tenure; availability of services, materials, facilities and infrastructure; affordability, habitability, accessibility, location, and cultural adequacy. Only by employing such a broad interpretation of the right at hand can States abide to the obligations stemming from Article 11 ICESCR in the reading given to it by the CESCR and thus allow the full realization of the right to housing both prior to and in the aftermath of disasters.

Acting with due diligence in order to prevent violations of the right to housing

A human rights approach to disasters has a lot to offer in terms of reduction of risks. While some disasters are unavoidable, much can be done to avoid their negative impacts on human rights. With respect specifically to the right to housing, the implementation of a human rights approach outside a number of due diligence obligations incumbent upon States, relating in particular to the pre-disaster phase:

First, of particular importance is the obligation to adopt measures aimed at strengthening the resilience and capacity to adapt of individuals and groups most vulnerable to the impacts of disasters. In this vein, Disaster Risk Reduction (DRR) plays a pivotal role, as recognized by the HRC, which encouraged States to respect, protect and fulfill the right to housing in their broader disaster risk reduction, prevention and preparedness initiatives. Examples of projects that can be adopted within a DRR strategy include conducting risk assessment in urban planning, rural development projects and all the designs of housing. Also, warning information must be communicated to all communities at risk in order to allow dwellers to seek protection and to take risk reduction actions. In this respect, the European Court of Human Rights has already had occasion to underline that States have a human rights obligation to reduce disaster risks and vulnerabilities by setting up, inter alia, alarm and evacuation systems if a disaster is foreseeable. Also, if the State is able to prevent adverse effects of floods and landslides, it has to take appropriate action in conformity with its human rights obligations under both the right to life and the right to private life and property. Successful examples include the evacuation of hundreds of thousands of people from Cuba when the 2004 Hurricane Charley started approaching the country. Similarly, various effective measures were adopted in many central American States, partly in response to the devastation caused by Hurricane Mitch in 1998. Second, States have an obligation to implement DRR activities in a manner that respects human rights. For instance, when States adopt so-called constructive forced evictions - namely evictions rendered necessary by public security and safety concerns - these are legitimate only so far as the regulations introducing them are in line with human rights standards in particular the strict procedural requirements relating to the conduct of evictions per se and the right to redress and remedy. Also, evictions should not result in individuals becoming homeless. In this respect, when those affected by disasters are unable to provide for themselves, States must (a) ensure that alternative housing, allowance or access to production land is available; (b) ensure that eviction measures affecting an individual’s freedom of movement must always conform to the principle of proportionality. This implies that a balance must be struck between the rights of those affected and the obligation of the State to mitigate the adverse effects and ensure public safety. Accordingly, in adopting eviction measures - such as in instance a regulation preventing students from returning to flood-affected areas in order to prevent the effects of a tsunami - States shall ensure that the adopted measure is the least restrictive measure of achieving the triple objective, by demonstrating that other safety measures are not available or are ineffective.
States are therefore under an obligation to adopt DRR legislation ensuring the right to adequate housing. Special attention shall be given to those who were face discrimination and exclusion, including on the grounds of tenure status, and measures must be devised to protect them. 37

Third, States shall guarantee all affected persons and groups access to information and grant them the ability to participate meaningfully in the planning and implementation of the various stages of disaster response. Human rights law encourages the participation of groups that tend to be affected in the design and implementation of mitigation measures. In this regard, the HRC urged States to ‘ensure access to information and meaningful consultation and participation of affected persons and communities in the planning and implementation of shelter and housing assistance.’ 38 Informed and effective participation, in turn, requires that information about the mitigation targets and decisions related to those goals be managed transparently. The principle of participation in the context of mitigation initiatives should be implemented to ensure that those who tend to be most directly affected have a say in its design and implementation, which could help anticipate, and thus, over time, avoid situations that could result from the measures under discussion. The informed participation of people in the development of national- and local-level responses to disasters requires efforts from States to build the capacity of populations to take part in such decisions through public awareness and mitigation. This approach will ensure that the individual whose rights are most directly threatened by disasters, as well as the response actions undertaken become central elements in the implementation of urban planning initiatives and projects aimed at the development of new infrastructures. The participation of right-holders will increase the likelihood of States being more responsive to human rights vulnerabilities and of being better positioned to effectively strengthen the evidence of communication, coercion, and infrastructure systems. In the undertaking of DRR, human rights standards and obligations should call for the coordination and participation of concerned communities, the recognition of local knowledge and paying special attention to marginalized groups and those who face discrimination and exclusion. In this vein, a number of reconstruction projects worldwide have attempted to see the reconstruction process as an opportunity to promote a local development process rather than being limited to restoring pre-disaster conditions – the participation of communities being essential in that regard. 39

The right to housing, land and property restitution: recognizing all forms of tenure equally

The right to housing, land and property (HLP) restitution finds its most specific elaboration in the 2005 Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles or the Principles), 40 which recognized a distinct ‘right to restitution’ – covering housing, land and other property – for refugees and displaced persons. 41 The Pinheiro Principles constituted in this sense the culmination of a shift that commenced in the early 1990s from essentially humanitarian-driven responses to right-based approaches to return. 42 Yet it is not unanimously accepted that the Pinheiro Principles must also apply to disaster scenarios. Some commentators held that they are explicitly limited to the ‘arbitrary or unlawful deprivation’ of individuals’ homes, lands or places of habitual residence following displacement. 43 In this respect, it should be emphasized that the Pinheiro Principles seek to apply to all those displaced regardless of the nature or circumstances in which displacement was originally caused. 44 This implies that the Principles do apply in all cases of unavoidable failure by States in allowing displaced persons their right to return. Also, it must be argued that the Principles apply when the destruction of property could have been avoided, but the State implemented measures aimed at disaster preparedness and mitigation, e.g., a fill sheet of installing early warning systems. 45

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Moreover, the Principles can be applied as a specification of existing standards pertaining to the rights of displaced persons and refugees to return to their homes. In fact, the Principles provide relevant guidance on how best to manage the technical and legal issues associated with housing, land and property restitution, guidance which has since been reflected to varying degrees in States’ policies and practices. 46

Although the content of the Pinheiro Principles may find application in the case of disasters, they however need to be reoriented in order to be adapted to disaster contexts. In particular, a disaster-oriented re-interpretation of the Principles should encompass the notion of the opinion – expressed by some doctrine – that the Principles do not put the rights of tenants and the right of non-owners on equal footing. 47 For tenure security for all is central to the right to adequate housing in a post-disaster context. 48 The Principles shall therefore be understood at a rule of post-disaster reconstruction and resettlement. In particular, the principles should not be limited to the conferral of formal legal titles. On the contrary, the right to tenure security (including the right to adequate housing) must be understood as embracing a wide ambit of situations and extending to all tenure rights related to housing or land prior to disasters, irrespective of the tenure status or whether the land or housing is formally registered in the names of the right holders or their predecessors.
The right to tenure is indeed not dependent on the actual re-occupancy of a former place of habitual residence. Moreover, the principle of non-discrimination requires States to prioritize assistance and strengthen tenure security for those with weak, ambiguous or vulnerable tenure, a responsibility often overlooked in relief and recovery efforts, as further illustrated in the following paragraph.

Combating discrimination in access to adequate housing in disaster settings

As noted above, the most vulnerable—such as the poor and those living with insecure tenure—are more likely to live in disaster-prone areas. As a result, they are at a greater risk of displacement and often barely recover from the consequences of disasters. Although natural hazards do not distinguish between vulnerable and non-vulnerable individuals when they strike, it has been accepted that the losses originating from disasters are to a large extent man-made. This is the result of the fact that vulnerability and discrimination are usually intertwined and that disasters, albeit not causing discrimination, do exacerbate it. These consequences stem from the inherent link between discrimination and vulnerability in disaster contexts that disadvantaged groups are the most affected by disasters and, second, that actions taken by States to recover from disaster may perpetuate pre-existing patterns of discrimination against some groups.

In general terms, States are under an obligation to address housing inequalities in all phases of the disaster cycle. This stems from Articles 2 and 11 ICESCR, according to which the right to adequate housing shall be exercised without discrimination of any kind, based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It follows that States shall engage with securing the right to housing in a non-discriminatory manner, including in times of disaster. Although the HRC underlined that States shall respect, protect and fulfil the right to adequate housing without discrimination, making explicit reference only to post-disaster response and recovery efforts, it can be safely maintained that public authorities are under an obligation to respect equality and non-discrimination in all phases of the disaster cycle, including prevention and preparedness.

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In pre-disaster settings specifically, this obligation would originate from States’ general duty to take adequate measures to protect vulnerable members of society and ensure that disadvantaged groups have equal and equal enjoyment of their human rights, even in times of severe resource constraints. This viewpoint has been recognized, inter alia, within the European and Mediterranean Region Human Agreement (EUR-OPA), a platform for cooperation between European and Southern Mediterranean countries in the field of major natural and technological disasters. In 2012, EUR-OPA promoted the adoption of a document incorporating ethical principles relating to disaster risk reduction and contributing to people’s resilience to disasters. These principles notably stipulate that measures to prevent, reduce and prepare for disasters shall be respected and implemented without discrimination and that disaster prevention measures must be tailored to existing vulnerabilities. Also, feminist discussions have specifically taken place in relation to disaster confidence, gender equality and disability. A human rights-oriented approach to discrimination and the right to housing in pre-disaster situations would therefore entail that, in the undertaking of mitigation activities, States are called to implement, into gender-sensitive project designs and culturally adequate policies, the recognition of local knowledge and the adoption of measures attuned to the necessities of marginalized groups and those who face discrimination and vulnerability.

In post-disaster situations, hidden discrimination and vulnerabilities usually surface, as emergency situations may highlight long-entrenched patterns of discrimination and neglect. Recovery and reconstruction shall therefore be undertaken with the aim of progressively rectifying the right to housing, taking particular account of pre-disaster vulnerabilities. If the right to housing
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is interpreted broadly — i.e. as also encompassing housing as a social asset — then States would be bound to rebuild with a view to ensuring an adequate standard of living for all. 67 In other terms, recovery should not be seen as merely including the obligation to restore pre-disaster living conditions but also as an opportunity to promote local development processes. Following the Indian Ocean tsunami the Special Envoy of the UN Secretary-General noted that post-disaster recovery should allow authorities to “build back better” and break out of unsustainable development patterns in a sustainable way. 68 In the aftermath of the Pakistan floods it was similarly affirmed that the disaster should have been seen as “an opportunity to build back better and to step-up to the task of ensuring dignity to the millions who live in the margins of society.” 69 Among other affected vulnerable groups, special consideration in recovery programmes shall also be given to disaster-induced displaced persons, who are frequently victims of discrimination when it comes to the right to housing. In fact, the realization of these rights is often hindered by stigmatizations and stigmas, cultural barriers and obstacles, meaning firms their legal status. Nevertheless, States are under an obligation to ensure non-discrimination and equal treatment of displaced persons in the enjoyment of ICESCR rights, as per Articles 2 and 11 ICESCR. 70

In conclusion, the duty to discriminate in post-disaster efforts means that States’ interventions should aim to progressively ensure the right to adequate housing for all, by improving the overall living and housing conditions in the settlements affected by disasters. The approach should thus focus on settlements and communities, not on individual constructions, with the aim to create places where people can have an adequate standard of living. With the view of implementing such an approach, States should be keen to link relief and development, in turn contributing to reducing people’s vulnerability and increasing their resilience to future shocks.

Recommendations

Some contributions have maintained that the right to adequate housing in disaster relief and recovery efforts should not be narrowed down to the right to shelter but should instead be accorded a broad interpretation. 71 Accordingly, the right to housing shall encompass both the adequacy of physical structures and individual property ownership, and the right of individuals to have an adequate standard of living. This expansive interpretation of the right at hand in disaster contexts entails that States’ duties to realize it in pre- and post-disaster phases shall not only be seen as an obligation, but foremost as an opportunity. While DRR and disaster response activities should not replace development efforts, they may provide a timely occasion to redress the inequalities and vulnerabilities exacerbated by disasters and progressively realize the right to adequate housing for all. 72 Consequently, States should adopt an approach to disaster deliberately and comprehensively interpreting the right to adequate housing both at a legal and policy level.

On the other hand, and given the actual situation of tenure systems in the world — a variety approach to property institution, based on the existence of regulated individual freehold or the nature of affected individuals and families in order to rebuild housing and infrastructure — fails to address the actual situation of the majority of urban and rural populations, especially of the most vulnerable. In this regard, States should prevent, protect and promote a variety of tenure forms in reconstruction efforts, including tenures deriving from customary, communal, other hybrid tenure systems. Several instruments, apart from treaties, can be used in this regard (for instance, private property rights, use rights and collective arrangements). Non-discrimination on the basis of tenure must be guaranteed and protected in law, policy and practice. Non-discrimination on the basis of tenure must be guaranteed in the context of access to basic services and facilities, non-discrimination and non-discrimination on the basis of tenure must be guaranteed in the context of post-disaster reconstruction.
Non-discrimination on the basis of gender should also direct post-disaster reconstruction efforts. Indeed, both de jure and de facto gender equality are essential to the enjoyment of the right to adequate housing. In this regard, States must strengthen and protect tenants’ security of tenure, regardless of age, marital, civil or social status and independently from their relationship with male householders or community members.

Tenure should be secured in situ unless there are exceptional circumstances justifying evictions and displacements consistent with international human rights law. Public health, safety and environmental risks for the population should not be used as an excuse to undermine security of tenure. In such situations, the appropriate and non-discriminatory measures should be found where it is feasible, to mitigate and manage risks of disasters and threats to public health and safety or balance environmental protection and security of tenure, except when inhabitants choose to exercise their right to resettlement.

Additionally, considering the importance of the role of multilateral and bilateral development agencies in post-disaster reconstruction efforts, these institutions should ensure that their operations and projects promote rather than undermine the human right to adequate housing, including by adopting safeguard policies directed to that aim.

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Notes

* This text was based on the reports on adequate housing and disasters presented to the Human Rights Council at Special Rapporteur on the right to adequate housing during my mandate (2008–2014). Although the findings are based on domestic human rights laws and practices (Article 4) and treaties, they are also applied to the global level of human rights. The work of Alice Riccardi, post-doctoral fellow at Roma Tre University was essential in the preparation of this chapter. I express my appreciation to her and also to Emanuele Sommario, and the other editors of this book for their support and help.


4 CESCR, General Comment No. 4: The Right to Adequate Housing as a Component of the Right to an Adequate Standard of Living, UN Doc. H/RES/243 (14 December 2003).


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10 HRC, Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context, Miloon Kothari, UN Doc. A/HRC/16/42 (20 December 2010).


14 In order to develop the reports and subsequent resolutions drafted from these, the SR benefitted from dialogue with the IFRC, the Norwegian Refugee Council and the International Development Research Centre and with the UN agencies directly related to disaster response, namely UNHabitat and the International Organization for Migration.


16 ICESCR art 2(1).

17 CESCR, General Comment No. 4 (n. 4) para 7.

generalized and conceptualized the human right to adequate housing, the United Nations, Habitat Organization, and the UN agencies directly related to disaster response, namely UNHabitat and the International Organization for Migration.

19 HRC/7/16 (13 February 2008) para 4.


20 Among other programmes, see the establishment of the UN-Habitat and Human Settlements Foundation (UNHSSF) by the 56th Session of the Expert Committee through UNDA, Res III-200 (14 October 2002) and the 57th Session of the Expert Committee through UNDA, Res III-206 (21 November 2002).


23 CESCR, *General Comment No. 4* (n. 4) para 8(e).


25 CESCR, *General Comment No. 4* (n. 4) para 8.


27 HRC, Res 19/4 (n. 27) para 3.


29 iv See Report on Right to Housing and Disaster Response (n. 12) Operational principles 7, 25.


33 See CESCR, *General Comment No. 7* (n. 4).

34 See *ibid.* See also IASC (n. 22) C.2.4 and C.2.5.


36 See Report on Right to Housing and Disaster Response (n. 12) Operational principles 7, 16.


40 For the purposes of this study, the Human Rights Council is the most appropriate forum for the consideration of all human rights in the context of the impact of disasters.


42 See CESCR, *General Comment No. 7* (n. 4).
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44 The Pinheiro Principles (n. 40) principle 1.2.


48 The Right to12

49 Following the reasoning of Pinheiro Principles (n. 40) principle 1.2.


51 The applicability of these restitutionary provisions have also been confirmed by European human rights bodies. In the case of C. and K. v. Greece (App No 51476/09) (General Court, Advocate General Vrieze, 26 July 2012), the European Court of Human Rights was asked to rule on an alleged violation of the right to property. The applicant had commenced legal proceedings against the Greek government for an extinguishment of his property in order to make way for a new road. The court held that the applicant was entitled to compensation for the decision to demolish his house and only to a limited extent failed to repay the applicant’s individual rights.


54 Report on right to housing and disaster response (n. 12) Recommendation A(2), para 22.

55 South Africa Office of the President, Restitution and Land Rights Act No. 22 of 1994, Ch I (1)(xi); see also Supreme Court of Pakistan, Constitution Petition no 63 of 1991 and See Barela Case no 17 of 1991 (Pakistan).

56 See in this respect UN Habitat, The International Law of Property (London School of Economics Project on International Displacements, 2011).

57 In this respect see HRC, Report of the Special Rapporteur on adequate housing as a component of the right to adequate standard of living, and on the right to non-discrimination in this context, Rapporteur’s Final Report (n. 12) paras 1 and 2, para 20 (7 March 2013).

58 The HRC noted in this respect that ‘any deterioration in the general housing situation disproportionately affects persons with disabilities’. See HRC, Res 19/4 (n. 27) 2.


60 The HRC noted in this respect that ‘any deterioration in the general housing situation disproportionately affects persons with disabilities’. See HRC, Res 19/4 (n. 27) ch 4.

61 These provisions are complemented at the universal level by International Convention on the Elimination of All Forms of Racial Discrimination (n. 15) art 5.
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62 HRC, Res 19/4 (n. 27) para 8.
64 M. Prieur, Ethical Principles on Disaster Risk Reduction and People’s Resilience (EUR-OPA, 2009) 25.
67 See M. Cernea and C. McDowell (eds), Risks and Reconstruction: Experiences of Resettlers and Refugees (World Bank, 2000).
68 UN Special Envoy for Tsunami Recovery (n. 53) 7. For a similar approach to the Myanmar and Haiti cases, see L. Fan, ‘Disasters as Opportunity?’ HPG Working Paper (November 2013).
70 See also CommERD, General Recommendation XXX on Discrimination against Non-Citizens (1 October 2002).
71 Reports on right to housing and disaster response (n. 12) Recommendation A(1), para 22.
72 Ibid VII.
73 See Reports on security of tenure (n. 28).
75 Reports on security of tenure (n. 28).