

**THE UN COMMITTEE ON THE  
ELIMINATION OF DISCRIMINATION  
AGAINST WOMEN'S PROPOSED  
GENERAL RECOMMENDATION ON  
GENDERED-DIMENSIONS OF  
DISASTER RISK REDUCTION AND  
CLIMATE CHANGE**

AMNESTY INTERNATIONAL'S  
PRELIMINARY OBSERVATIONS

19 FEBRUARY 2016

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**Amnesty International Publications**

First published in 2016 by  
Amnesty International Publications  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

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Index: IOR 40/3468/2016  
Original Language: English  
Printed by Amnesty International, International Secretariat, United Kingdom

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## INTRODUCTION

Amnesty International welcomes the opportunity to provide the following preliminary observations in advance of the United Nations (UN) Committee on the Elimination of Discrimination against Women's half-day of general discussion on the gendered-dimensions of Disaster Risk Reduction and Climate Change on 29 February 2016.

Amnesty International notes that the CEDAW Committee is the first UN human rights treaty body to substantially engage on the issue of climate change, particularly in light of its 2009 Statement on Gender and Climate Change.<sup>1</sup> The organization would like to express its appreciation to CEDAW for its pioneering leadership in this area. It provides a key opportunity to ensure that human rights and gender equality are at the forefront of laws and policies adopted to tackle disaster relief and climate change. Critical to this is recognising state obligations under CEDAW to prevent climate change because of the disproportionate impact it has on women and girls, to remove structural inequalities that lead to this disproportionate impact and ensure gender equality in measures to both mitigate against and adapt to climate change and disasters. In particular the impacts of intersectional discrimination, including on individuals at risk of discrimination on multiple grounds such as sex, sexual orientation, gender identity, social or economic status, ethnicity and disability, must be recognised.

Amnesty International raises a number of issues for consideration below, but it should not be seen as implying an order of prioritisation of the issues commented on. Amnesty International sees all human rights as intersectional, interdependent and indivisible. In addition, this submission aims to supplement, rather than repeat, analysis that is already contained in the Concept Note prepared for the General discussion, and the 2009 CEDAW Statement on Gender and Climate Change. Therefore, this submission is not intended to set out Amnesty International's full position on gender and climate change.

## SCOPE OF THE GENERAL RECOMMENDATION

The Concept Note refers variously to the negative effects of DRRCC on 'women' and 'women and men'. Amnesty International urges the Committee to take a wider view of gender equality, and explicitly include transgender and other gender non-conforming individuals and those who might be discriminated against in times of disasters because of their sexual orientation or gender identity. While recognising the important impact on women and girls, the specific needs of transgender and intersex people should also be reflected at times of disasters.

It is critical that the General Recommendation extends beyond natural disasters to cover as well the obligations of states in cases of human-made disasters. The effects that human-made disasters have in the lives of individuals and its impacts on human rights are very similar to those caused by natural disasters. The Committee should use this important opportunity to address the obligations arising from the Convention when facing a human-made disaster, particularly those that are caused by or ought to have been reasonably foreseeable both by states and corporations, including climate change.

## PREVENTING DANGEROUS LEVELS OF CLIMATE CHANGE

As recognised in the 2009 CEDAW Committee's Statement and the Concept Note on this proposed General Recommendation, CEDAW requires States to take all necessary steps to ensure men and women are equally

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<sup>1</sup> Statement of the CEDAW Committee on Gender and Climate Change, adopted at the 44th session of CEDAW 20 July to 7 August, New York 2009, [http://www2.ohchr.org/english/bodies/cedaw/docs/Gender\\_and\\_climate\\_change.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/Gender_and_climate_change.pdf)

protected from the effects of disasters and climate change. However, as recognised in the Concept note, women and girls are disproportionately affected by disasters and climate change, as compared to men and boys, due to pre-existing discrimination, for example in regard to the right to food and in access to secure tenure, and that such situations in fact exacerbate pre-existing gender inequalities. Pre-existing inequalities will likely be exacerbated due to higher workloads, the harmful effects of relocation and displacement (compounded by discriminatory barriers to access to relief, as described further in this submission), increased occupational threats, and health risks (including higher mortality), which disproportionately affect women and girls. Women and girls' marginalized status in many societies means that resettlement caused by climate change increases the burdens imposed on them.

Up to an additional 600 million people could face hunger by 2080 due to climate change.<sup>2</sup> Even if the global temperature rises no more than 2°C, one in seven people in the world will face a severe reduction in water resources.<sup>3</sup> Such figures have not been disaggregated by gender. However, as noted by the Concept note, women make up the majority of the world's agricultural and informal-sector workers. They also take on disproportionately greater burden for unpaid care work including collecting water and caring for family members affected by ill-health, and are therefore expected to be disproportionately affected by events such as drought and disasters such as floods.

The Concept Note at present refers only to adaptation to climate change and disaster relief, but not to prevention of dangerous levels of climate change and human-made disasters. Its primary focus on ensuring that measures to adapt to climate change are gender-responsive is appropriate. However, such measures, while essential, are not sufficient in order to implement the full extent of state obligations under CEDAW. Amnesty International recommends that the process to draft the General Recommendation consider and elaborate the obligations of States under CEDAW to take steps within their power to mitigate against climate change due to its disproportionately negative gendered impact.

The duty to ensure substantive equality between men and women and to take 'all appropriate measures' to guarantee the full development and advancement of women on a basis of equality of men under Articles 2 and 3 of CEDAW should be interpreted as requiring states to take all appropriate measures, including reducing greenhouse gas emissions to the greatest feasible extent, to prevent and mitigate the foreseeable effects of climate change which have disproportionate impact on women and girls, and can hamper, and in some contexts potentially reverse, progress towards achieving substantive gender equality and in the protection of women and girl's rights. The current plans of the world's states to reduce greenhouse gas emissions can, taken together, can, at best, keep the global average temperature rise to 2.7°C above pre-industrial levels.<sup>4</sup> This is far higher than the 1.5°C the UN High Commissioner for Human Rights has called upon States to treat as the maximum permissible rise.<sup>5</sup> In the Paris Agreement of 12 December 2015, States agreed "to pursue efforts" to limit the global temperature rise to 1.5 °C, but the treaty does not commit them to take the necessary steps to limit the temperature rise to 1.5 °C.<sup>6</sup>

State conduct in regard to climate change will have an effect on the rights of people both within and beyond their borders. Obligations of States under CEDAW apply, as stated by the Committee, to "persons within their territory *or effective control*, even if not situated within the territory".<sup>7</sup> In regard to climate

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<sup>2</sup> United Nations Development Programme (UNDP), Human Development Report 2007/2008. Fighting climate change: Human solidarity in a divided world, New York, 2007, p. 90.

<sup>3</sup> Intergovernmental Panel on Climate Change (IPCC), Fifth Assessment Report (AR5), Working Group II Report, p. 250.

<sup>4</sup> Climate Action Tracker, 2015, <http://climateactiontracker.org/news/224/INDCs-lower-projected-warming-to-2.7C-significant-progress-but-still-above-2C.html>

<sup>5</sup> High Commissioner for Human Rights, "Burning Down the House", 3 December 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/BurningDowntheHouse.aspx>. See also the report by five UN Special Procedures, the Special Rapporteurs on persons with disabilities, the environment, extreme poverty, water and sanitation and on international solidarity, The Effects of Climate Change on the Full Enjoyment of Human Right, 30 April 2015.

<sup>6</sup> Conference of the Parties, Adoption of the Paris Agreement, FCCC/CP/2015/L.9/Rev.1, Article 2 (a).

<sup>7</sup> CEDAW Committee, 'General Recommendation 28 on the Core Obligations of States Parties under Article 2' (2010), CEDAW/C/GC/28 para. 12 (emphasis added). CEDAW's interpretation of its treaty in this respect is consistent with that taken by other UN human rights treaty bodies and the International Court of Justice. The ICJ found that Articles 2 and 5

change, each State has an element of control over the rights of people affected by climate change since it can limit greenhouse gas emissions by actors within its jurisdiction. The negative consequences of climate change for human rights have been known to States for several decades and it has been foreseeable to them that failure to limit emissions and take all other appropriate measures to mitigate and prevent climate change's negative impact can undermine the protection and full realization of women and girl's rights protected under CEDAW. Each state that fails to take adequate steps within its ability therefore fails to uphold its obligations under CEDAW.

CEDAW is relevant not only to the *extent* of climate change mitigation but also the *manner* in which such mitigation is achieved. For example, in transitioning away from fossil fuels, States must assess the implications of such measures, such as energy subsidy schemes, from a gender-perspective and carry out such transition in a manner that maximises gender equality. States must facilitate and promote changes to production and consumption patterns and in doing so, ensure compliance with CEDAW, including by ensuring women's equal and active participation in all levels of decision-making processes related to climate change at local, national, regional and international levels (in line with CEDAW article 7); ensuring women's equal access, use and control over science and technology, formal and informal education and training that are essential to communities' capability to mitigate and adapt to climate change (in line with CEDAW article 10); ensuring women's access to health care services and information, including sexual and reproductive health (in line with CEDAW articles 10 and 12); empowering rural women to manage environment through equal access to productive resources, including agricultural credit and loans, and sustainable energy technology as well as to participate in government programmes (as per CEDAW article 14 and 13) and ensuring women benefit equally from diversification of income sources and employment opportunities associated with climate change mitigation such as in employment in renewable energy sectors (in line with CEDAW articles 11, 13 and 15).

## **WOMEN'S PARTICIPATION IN DECISION MAKING ON DEVELOPMENT PLANNING, CLIMATE CHANGE AND DISASTER RISK MANAGEMENT**

States and humanitarian organisations and aid agencies collaborating in the course of prevention, relief and recovery efforts must ensure women's effective participation in all information dissemination and decision making fora. This requires a gender analysis to identify the specific needs of women and girls in prevention, preparedness, relief and reconstruction efforts at all phases of disaster-response. States and humanitarian organisations and aid agencies must be careful not to direct efforts and assistance through a single family member, which usually has been a male 'head of household', or a community leader because the assistance may not reach all family or community members.

Participation of the affected communities, including the participation of women and girls as well as others who are marginalised because of their sexual orientation or gender identity, should be facilitated by the State at all stages. In order to do so, the State must ensure that the affected communities have access to all the information to understanding the nature of the disaster and to limiting and remediating any resulting social, environmental and other impacts.

States should ensure that effective mechanisms are established to facilitate participation of all those affected and in particular take measures to ensure the participation of women and girls, and members of the marginalised groups, including persons belonging to minorities and Indigenous Peoples without

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of CERD "generally appear to apply, like other provisions of *instruments of that nature*, to the actions of a State party when it *acts beyond its territory*;" (emphasis added). *Application of the International Convention on the Elimination of all Forms of Racial Discrimination (Georgia v Russian Federation), Provisional Measures, Order of 15 October 2008* [2008] ICJ Rep 353, para. 109.

discrimination, including on the basis of marital status, sexual orientation or gender identity. This requires an analysis of existing formal and informal structures of participation and organization at the community/local level in order to understand processes that may facilitate or hinder the participation of women, girls and LGBTi people, and to develop, where needed, a targeted strategy to ensure their access to information and participation.

States must ensure that victims are fully informed, that they are able to make decisions based on having the relevant information, that information is available in the languages necessary to meet the various needs of those affected, and in formats that can be easily understood and accessed, so that those affected by the disaster can fully participate and take informed decisions in the relief efforts. Communication should be cognizant of varying levels of comprehension and not be too technical, complex, hasty, or in a language, manner or context that cannot be understood by the affected population.<sup>8</sup> This includes recognition that different mediums may be required to ensure that women are fully informed, taking into account the social and cultural environment, including the level of education and literacy of women in the affected areas.

Information and opportunities to input should be provided using a variety of methods to ensure diverse views within the community are heard. Relying solely on 'community leaders' could result in only receiving input from elite leaders who are not representative of the community, and usually further marginalize women and girls, and people from disadvantaged groups. Indigenous Peoples' own decision-making processes should be respected.

## **ECONOMIC AND SOCIAL INEQUALITIES**

The distribution of emergency aid and assistance must be done in a non-discriminatory manner that reflects intersectionality of factors which increase the vulnerability of women or others because of their sexual orientation or gender identity. All prevention, relief, recovery and reconstruction efforts should include a gender analysis to ensure that the rights of women and girls, among other groups that face discrimination, are protected and that they receive appropriate support. Priority in the provision of assistance international medical aid, distribution and management of resources, such as water, food and medical supplies, and financial aid should be given to the most marginalized groups of the population.<sup>9</sup>

States and humanitarian organisations and agencies should also take into consideration the pre-existing patterns of inequalities and social exclusion, and mitigate their negative impact on the relief process, in particular for women and girls as well as for individuals and groups at risk of discrimination and marginalisation. Failure to take into account such differences risks reproducing pre-existing patterns of discrimination and disadvantage through aid distribution and relief process. Disaster risk reduction and response should be seen as an opportunity to correct existing gender imbalances in terms of access to rights and should guard against further entrenching patterns of gender discrimination.

Authorities must ensure that aid distribution does not flow first and fastest towards those with greater access and capacity, and that there is a balance between 'blanket' and 'targeted' aid distribution. Formally equal, 'blanket' distribution efforts risk being captured by those with better access to decision-makers and capacity to benefit from the relief process. Any requirements for receiving relief aid should not create barriers and result in excluding certain groups from receiving assistance, particularly women and girls as well as people from marginalised groups.

For example, Amnesty International found out that in the aftermath of the Nepal earthquake, people with

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<sup>8</sup> See Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, report to the General Assembly, A/64/272, para. 23.

<sup>9</sup> CESCR, General Comment 14, on the right to the highest attainable standard of health, para. 40.



disabilities, the elderly and women headed households, were denied crucial assistance because of the way it was being distributed. For example, the practice of leaving relief items by the nearest road for collection could mean a long trek down the mountain and a load to carry back up – which might be impossible for the elderly and people living with disabilities, and very difficult for single women with children. Longstanding patterns of discrimination against members of groups such as Dalits and some disadvantaged Janajati groups (Indigenous Peoples) had also resulted in their unequal access to relief.<sup>10</sup> The administrative requirements to access relief assistance must not create barriers for women and girls, for example the requirements to produce documentation may exclude certain groups such as those who lack citizenship documentation, land titles, or have depended on rented accommodation and tenancy of various kinds. Gender-specific barriers face women in polygamous marriages who are not legally recognised by their spouses or widows who are rejected by in-laws as well as those with missing spouses who are presumed dead and do not have access to death benefits due to the inability to recover the body of the deceased. States must conduct surveys in order to identify populations at risk, with disaggregated data on gender and other relevant categories such as belonging to a minority, Indigenous identity or disability in order to identify groups potentially facing discrimination and those with special needs. In the immediate aftermath of a disaster, States should carry out a survey with those in immediate need of emergency relief to ensure that those who may be less able to fend for themselves are empowered to get emergency relief. This includes unaccompanied children, the elderly and people living with disabilities, women headed households, single women and widows, pregnant and breast-feeding women, women with small children, women and girls belonging to Indigenous or ethnic minorities, migrant, refugees and internally displaced women and girls, among others.

## **EDUCATION, INFORMATION AND TRAINING**

Education, information and training should not be exclusively linked to the areas of disaster risk management and climate change, but also recognise the gender-based impact of disruption to schooling for women and girls, who often receive less schooling than men and boys. States must endeavour to re-establish schooling as soon as practicable after an emergency and should ensure that girls return to schooling after disasters and do not drop out.

Access to information is essential for adequate prevention and response efforts to disasters. All affected individuals and communities are entitled to easy, accessible, timely and meaningful information concerning the nature and level of the disaster, the possible measures to be taken to mitigate risks, early warning information of possible future consequences and information on ongoing humanitarian assistance and recovery efforts. Failures in ensuring and disclosing information can constitute human rights violations, further undermine humanitarian assistance efforts and even put the security of others at risk.

Training and information should not be solely referenced in relation to disasters preparation and responses, but should include more general access to information on gender-related issues such as access to sexual and reproductive health information and gender-based violence.

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<sup>10</sup> Amnesty International, “Nepal: Earthquake Recovery Must Safeguard Human Rights”, ASA 31/1753/2015, <https://www.amnesty.org/en/documents/ASA31/1753/2015/en/>

## RIGHTS TO FOOD, WATER, SANITATION, ADEQUATE HOUSING AND STANDARD OF LIVING

Lack of access to food, water and sanitation disproportionately impacts on women and girls. In many communities, women and girls are often responsible for transport of water over long distances to support their families' cooking and hygiene needs. The lack of safe and accessible sanitation facilities can also increase the risk of sexual and gender-based violence.<sup>11</sup> It is critical that disaster risk reduction strategies as well as relief, recovery and reconstruction efforts recognise sanitation as a distinct human right in line with recent trends,<sup>12</sup> specifically access to toilets and other hygiene requirements of women and girls, including during menstruation.

In recognition that women are often denied access to or ownership of land or productive resources due to discriminatory laws and practices, such as on inheritance, and that the denial of the right to adequate housing disproportionately impacts on women and children, States must take particular measures to ensure that women are not overly affected by measures to address disaster risk reduction and climate change. Special measures will be needed to address historical gender inequalities which have denied women their rights, which may be compounded by disasters and climate change.

Responses to disaster risk reduction and climate change must reflect the unique impact disasters and climate change has on women living in informal settlements if they are forced off the land which they occupy. Women without security of tenure, are vulnerable to forced evictions and have limited access to productive land to supplement their food and income. Disaster prevention, response or climate change adaptation must not lead to forced evictions. Forced evictions and land grabs have particular impact on women.<sup>13</sup> States must take the necessary steps to ensure that women have access to all the legal and procedural safeguards against forced evictions including access to legal aid to challenge evictions and adequate legal remedies, without discrimination.

Emergency shelter and alternative housing as a part of disaster response must be provided to all affected people without discrimination. Emergency shelter and alternative housing should be prioritised and provided taking into account the specific human rights risks faced by women, girls and LGBTi people in a post-disaster situation.

In addition to considering access to productive resources such as land, and recognising that some disasters can have a permanent or long lasting impact on productivity of land and food security, job insecurity post-disaster should be considered as a factor particularly affecting the livelihoods of women who are often historically excluded from and/or discriminated in the labour market.

Women may not be able to return to former work because of a tight labour market, location of emergency shelters, certain work may no longer be available, or because of the additional burden women have as carers (including looking after children, elderly or people with disabilities). Women disaster survivors often encounter a lack of job opportunities available post-disaster to sustain their livelihoods.<sup>14</sup> This in turn impacts on the social and economic development of women. The General Recommendation should also recognise the risk for women of labour exploitation following disasters.

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<sup>11</sup> Amnesty International, *Risking rape to reach a toilet: Women's experiences in the slums of Nairobi, Kenya*, 2010 (Index: AFR 32/006/2010); Amnesty International, 'Where is the dignity in that?' Women in Solomon Island slums denied sanitation and safety, 2011 (Index: ASA 43/001/2011).

<sup>12</sup> See 'The human rights to safe drinking water and sanitation', General Assembly Resolution 70/169 (17 December 2015).

<sup>13</sup> Amnesty International, *Eviction and Resistance in Cambodia: Five Women tell their stories*, 2011, Index: ASA23/007/2011, available at <https://www.amnesty.org/en/documents/ASA23/007/2011/en/>

<sup>14</sup> Resolving Post-Disaster Displacement: Insights from the Philippines after Typhoon Haiyan, p. 62.

## INDIGENOUS WOMEN

Indigenous women may face different challenges and have different requirements for assistance as compared to non-Indigenous women as highlighted by the Committee. In addition to this, disasters may affect some Indigenous women disproportionately because of difficulties in accessing geographically remote areas affected by disasters.

In many cases, Indigenous Peoples have been developing adaptive approaches to natural disasters and climate change for many generations, and Indigenous women will most likely play a specific role in such approaches. States should recognise the agency of Indigenous women and ensure that they are empowered to bring their specific knowledge and experience to efforts to address disasters and climate change.

When the disaster affects lands of Indigenous men and women, the duty to consult and seek their free, prior and informed consent (FPIC) is not absolved.<sup>15</sup> Forced relocation of Indigenous women from their land without seeking their FPIC is a violation of their human rights and the State has a duty to ensure the protection of these rights even in times of disasters. When the affected Indigenous women are living in voluntary isolation, further consideration must be taken of the specific risks they might face, including contamination with diseases such as those which peoples have no defence against, which could arise from relocation in context of disaster mitigation.<sup>16</sup> The evident decision of an Indigenous People to remain in voluntary isolation should be considered as a refusal to engage in any consultation aimed at obtaining their FPIC.<sup>17</sup> Nothing in this part should undermine the obligation of States under Art 2 (f) to modify or abolish existing laws, customs and practices, which constitute discrimination against women.

## MATERNAL HEALTH AND MORTALITY AND SEXUAL REPRODUCTIVE HEALTH

In addition to those who have a need of emergency health care as a direct result of the effects of the disaster, provision must be made for those needing such care for other reasons. For example, people living in makeshift tents near to their homes or in more formal displacement camps, may be at higher risk of mosquito bites resulting in malaria and other infectious diseases as well as people with pre-existing health issues, which are likely to worsen due to a lack of adequate sanitation. This may have a disproportionate impact on women who would receive the burden of care for children and sick family members in cases of epidemics. Therefore, it is essential that sanitary toilet facilities be provided in displacement camps.

States should give particular attention to the health needs of pregnant or breast-feeding women including in determining the provision of food, water, sanitation, shelter and health care. All provision of health care should also include appropriate care for pregnant or breast-feeding women and facilities for safe births.

Access to sexual and reproductive health should not be unnecessarily restricted in times of disaster including those related to climate change. States must particularly take steps to ensure access to information and services on sexual and reproductive health during and in the aftermath of disasters and recognise the particular needs of women and girls, women with disabilities, women who are pregnant or breast-feeding, people living with HIV, and other marginalised or at risk groups such as LGBTI people and sex workers.

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<sup>15</sup> United Nations Declaration on the Rights of Indigenous Peoples, Art. 10.

<sup>16</sup> See Inter-American Commission on Human Rights. "Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: Recommendations for the full respect of their human rights", available at: <http://www.oas.org/en/iachr/indigenous/docs/pdf/Report-Indigenous-Peoples-Voluntary-Isolation.pdf>

<sup>17</sup> Ibid, p. 79.

In particular, victims of sexual violence must be guaranteed immediate access to post rape health care, including STI and HIV prophylaxis, emergency contraception and safe and legal abortion services, as well as psycho-social support. Health care and appropriate psychosocial support must also be available and accessible for victims of other gender-based violence.<sup>18</sup> It is critical that authorities recognise that the right to health includes both mental and physical health.

## **GENDER-BASED VIOLENCE AND HUMAN TRAFFICKING**

In the aftermath of a disaster, lack of adequate food and water supplies, sanitation, inadequate healthcare, a breakdown of family support structures, inadequate housing and a lack of community support may increase women's and girl's responsibilities and workloads at the same time as exposing them to greater physical insecurity, including the risk of rape and other forms of gender-based violence. States have the obligation to protect women from all forms of discrimination and gender-based violence, including in situations of disasters (Art 6, CEDAW). A gender analysis of the relief efforts should be carried out to identify potential threats to women's and girls' security and mitigate against these.

Financial insecurity and a breakdown of family or social support factors can also increase the risk for women and girls to be subjected to trafficking for the purposes of exploitation. The definition of trafficking should be consistent with the Palermo Protocol, which has now been ratified by 169 States.<sup>19</sup> States should take measures to identify and protect victims of trafficking, violence and exploitation, including in times of emergencies and disasters.

Amnesty International has documented the increased risks of violence that women face in accessing water, sanitation and toilets when using communal facilities in informal settlements.<sup>20</sup> Similarly the lack of privacy, use of shared facilities or having to travel (including during the night) to use bathroom facilities at times of disasters can increase risk of violence against women and girls when bathing and using toilets. A women's right to privacy is often overlooked at times of disasters.<sup>21</sup> It is essential for authorities to ensure safety for women and girls in camps for people displaced by disasters including through provision of safe toilets, good lighting, as well as ability to safely and confidentially report instances of gender-based violence and receive health care and other support services if such violence happens. Disasters may occur in areas of armed conflict or disasters can have a destabilising effect on security in general, the link between women, peace and security – particularly the increased risk of physical and sexual violence at such times – should be explicitly recognised.<sup>22</sup>

## **RESTRICTIONS, QUARANTINES AND STATES OF EMERGENCY**

Under certain circumstances following a disaster, States may seek to impose restrictions on several rights and freedoms, for example in the form of quarantines, curfews or states of emergency. International human rights law requires that any restriction on human rights in the name of public health or public emergency

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<sup>18</sup> See for example Concluding Observations from the Committee on the Rights of the Child, Costa Rica, para. 64(e), CRC/C/CRI/CO/4 (2011); Committee Against Torture, Peru para. 15, CAT/C/PER/CO/5-6 (2012).

<sup>19</sup> The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, adopted by UN General Assembly Resolution in 2000 and entered into force on 25 December 2003.

<sup>20</sup> See reports cited in note 11 above.

<sup>21</sup> M. Bokil and N. Gorhe, *Gender Issues in Disaster Management*, Oxfam and Community Aid Abroad India, available at [www.disasterwatch.net/resources20links/mlind.pdf](http://www.disasterwatch.net/resources20links/mlind.pdf)

<sup>22</sup> The UN Security Council has adopted seven resolutions on Women, Peace and Security, including SC Resolution 1325 (2000); SC Resolution 1820 (2008); SC Resolution 1888 (2009); SC Resolution 1889 (2009); SC Resolution 1960 (2010); SC Resolution 2106 (2013) and SC Resolution 2122 (2013).

meet the requirements of legality, necessity and proportionality.<sup>23</sup> Any such measures must not discriminate based on sex, marital status, gender identity or sexual orientation or any other unlawful grounds of discrimination.

The gendered impact of restrictions at times of disasters must be assessed and the particular needs of women and girls must be taken into consideration, including ensuring their access to sexual and reproductive health information, services and commodities. For example, curfews may have a disproportionate impact on women with carer responsibilities and there is an increased risk of abuse of authority and violence against women at such times. Freedom of expression, including the right to seek and impart information through a variety of means, is likely to be a critical right in need of protection during disasters and climate change.

If a State decides to declare a state of emergency it must be limited to the extent strictly required by the exigencies of the situation, relating to the duration, geographical coverage and material scope, and any measures of derogation resorted to because of the emergency.<sup>24</sup> According to international standards, some rights are non-derogable, even in emergencies.<sup>25</sup>

## MIGRANTS, REFUGEES AND INTERNALLY DISPLACED PERSONS

The Concept Note should highlight specific issues relating to the rights of women who are migrants, refugees or internally displaced persons. For example, women and girls affected by disasters who are also refugees may lose identity documents and other paperwork – affecting their ability not only to register for humanitarian services and assistance, but also their ability to seek legal protection as a refugee.

Internally displaced persons are particularly at risk of violence and other human rights violations including greater risk of sexual and gender-based violence and other violations of their sexual and reproductive rights. States should endeavour to follow the Guiding Principles on Internal Displacement,<sup>26</sup> with particular focus on the intersection with gender inequality. States should facilitate safe and legal migration, particularly for those affected by disasters and climate change, with particular attention to the specific barriers faced by widowed or single women as well as women headed households.

## PREVENTION

States have a responsibility to prevent and reduce disaster risk. States should enhance work to reduce exposure and vulnerability, and integrate a risk reduction approach into development policies and planning at all levels of government, including through international, cooperation.<sup>27</sup> This should be done in a manner that maximises participation of affected communities, particularly the most marginalised and, in particular women and girls and people at greater risk of discrimination and marginalisation due to their gender identity or sexual orientation. State should develop and periodically update risk maps to be widely

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<sup>23</sup> UDHR, Art. 3; ICCPR, Art. 9. See also Human Rights Committee, General Comment 35, on Article 9 of the ICCPR, para. 65.

<sup>24</sup> HRC, General Comment 29, on Article 4 of the ICCPR, para. 4.

<sup>25</sup> These include economic, social and cultural rights, as well as articles 6, 7, 8 (1), 8 (2), 11, 15, 16 and 18 of the ICCPR.

<sup>26</sup> UNOCHA, Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2 (1998).

<sup>27</sup> Sendai Framework for Disaster Risk Reduction 2015-2030. See also Hyogo Framework for Action 2005-2015: Building the resilience of nations and communities to disasters. UN World Conference on Disaster Reduction, A/Conf.206/6.

disseminated to the general public and communities at risk and put in place early warning systems that are timely and include the necessary procedures to ensure protection of those at risk, including steps that people can take to protect themselves.<sup>28</sup> Affordable, safe housing alternatives should be sought to replace damaged and vulnerable, taking into account the specific needs of women and girls as well as others who are marginalised because of their sexual orientation or gender identity.

States should ensure that all actors, including corporations, over whom they exercise jurisdiction respect human rights and therefore refrain from causing or contributing to disasters. For example, in areas prone to disasters, when the risk of disasters is high because of the inherently hazardous nature of a company's operations or when a disaster has occurred, they should ensure that companies undertake enhanced human rights due diligence to identify, prevent, mitigate and address the human rights risks specific to that situation, throughout their global operations, including in regard to subsidiary companies or joint ventures.

## JUSTICE AND REPARATIONS

States must take appropriate steps to ensure that individuals and communities whose human rights are adversely affected have access to an effective remedy through judicial, administrative, legislative or any other appropriate means. State(s) with jurisdiction over parties, such as companies, that have caused or contributed to the harm in question, and the State(s) in which harm is felt, should ensure such remedy, individually and through international cooperation. Remedies to victims must be comprehensive and include measures of restitution and remediation, compensation, rehabilitation, satisfaction and guarantees of non-recurrence.

Where a disaster has resulted in significant harm to persons, the environment, property or their livelihoods, an independent and impartial investigation should be undertaken on the adequacy of prevention measures and relevant policies that were in place before the disaster. If the disaster is in whole or in part the consequence of human action or omission, the investigation must ascertain what the cause was, who was responsible and whether it could have been prevented. States must ensure that all affected individuals have equal access to remedies. For example, where compensation in the form of damages is awarded, the State should ensure it is provided to the victims and the system for applying for and receiving compensation is accessible, transparent, non-discriminatory and expeditious. States must identify and remove all specific gender-specific barriers in accessing justice and reparations including through provision of accessible information and legal aid.

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<sup>28</sup> Hyogo Framework for Action 2005-2015: Building the resilience of nations and communities to disasters. UN World Conference on Disaster Reduction, A/Conf.206/6.



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