United Nations Global Seminar on Early Warning, Pollution Remediation and Environmental Liability
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Statement by UN Special Rapporteur on Toxics and Human Rights, Marcos A. Orellana

Thank you, Madame Chair. I first wish to thank the organizers of the United Nations Global Seminar on Early Warning, Pollution Remediation and Environmental Liability for inviting me to share some reflections on how a human rights-based approach applies to disasters.

My name is Marcos Orellana, and I am the UN Special Rapporteur on Toxics and Human Rights. This is an independent mandate under the Special Procedures of the UN Human Rights Council, focused on monitoring and reporting. It was created with the understanding that exposure to hazardous substances and wastes can compromise the effective enjoyment of a range of internationally protected human rights, such as the right to life, the right to health and the right to a clean, healthy and sustainable environment.

The Toxics and Human Rights mandate has engaged environmental disasters for a good number of years, given the human rights dimensions inherent in disasters.

For example, a few days after my appointment by the Human Rights Council in August 2020, the Port of Beirut experienced a massive explosion of 2,750 tons of ammonium nitrate. The blast left more than 300,000 people homeless. In collaboration with other Special Procedure mandate holders, I called on the Lebanese Government to conduct an independent investigation—but to this day, meaningful accountability remains absent.

I also wish to mention, by way of example, a statement I released in December 2024 that commemorated the 40 years that victims of the Bhopal disaster in India have struggled for justice. This industrial disaster is arguably the most serious in human history. Within 3 days, more than 10,000 people died as a direct result of exposure to the deadly gas released from the Union Carbide facility. It is estimated that more than 570,000 people were exposed to the toxic gas and have suffered chronic ill-health and long-lasting effects.

These cases illustrate the serious human rights implications of environmental disasters. In point of fact, the European Court of Human Rights has decided several cases involving disasters, such as the Budayeva case concerning mudslides in the Russian Federation town of Tyrnauz (in 2000) and the Tatar case involving the breach of the Baia Mare gold mine tailings dam in Romania, which released about 100,000 cubic meters of waters containing cyanide (also in 2000).

Examples of environmental disasters clearly demonstrate why a human rights-based approach is essential for addressing the serious risks these events pose to the effective enjoyment of human rights. In the coming minutes, please allow me to unpack five elements of this proposition.

First, a human rights-based approach enables stronger governance. This is because it is grounded in principles that are central to good governance, such as transparency, prevention and accountability. It also provides a clear framework that distinguishes the obligations of duty-bearers and the entitlements of rights-holders. Moreover, a human rights-based approach ensures that priority is given to people in vulnerable situations.

These various elements provide the ingredients for effective governance that can help individuals, communities and nations confront environmental risks.

Second, a human rights-based approach articulates clear obligations on prevention. In the face of risk, governments cannot be, and are not, bystanders or spectators. They have positive duties to act, including by setting up legislative and administrative frameworks for the control of activities that pose risks to the effective enjoyment of human rights. These legal frameworks must be adequate to deter threats. While the specific measures to be taken by Governments are case-specific, they must account for the type and magnitude of the risk in question. For example, in the Budayeva case that I mentioned earlier, the European Court of Human Rights identified land-planning and emergency relief policies as concrete measures that should have been taken. Similarly, in the Tatar case, the Court identified duties to ensure public access to risk assessments.

Duties of prevention also shed light on the interaction between customary international law on environmental protection and international human rights law. More specifically, the duty to prevent transboundary environmental harm established in general international law can inform the content of the right to a clean, healthy and sustainable environment. Let us recall that in July of last year, the International Court of Justice rendered its *Advisory Opinion on Obligations of States in Respect of Climate Change*, where it reasoned that the right to a healthy environment is essential for the realization of other human rights, and thus binding on states as a matter of international law.

Third, a human rights-based approach requires prompt and independent investigations when disasters occur. Determining the chain of events is indispensable for accountability. It is also key for achieving closure and articulating what has been termed the right to truth. For example, in cases involving loss of life, the families of the victims have the right to know why their loved ones died and who is responsible. We cannot, and should not, forget that accountability is a central principle of the whole human rights edifice; and that prompt and independent investigations are key to enabling accountability.

Fourth, a human rights-based approach demands access to justice and effective remedies. In my 2025 thematic report to the UN Human Rights Council, I present a set of guidelines on access to justice and effective remedies in the context of toxics. Too often, victims of toxic exposure, including in disaster situations, face serious obstacles in their pursuit of justice. At times, the obstacles are insurmountable, and the result is impunity. Overcoming obstacles requires applying good practices and innovative strategies to strengthen systems of accountability, including liability systems. In this light, good practices include: broadened standing; dynamic burden of proof; collective actions; accessible legal and technical assistance; cross-border litigation; specialized courts; and comprehensive remedies based on the best available science.

There can be no doubt that effective remedies are a key component of accountability. In the context of environmental disasters, this calls for the strengthening of effective remedies, including liability for environmental harm and remediation and restoration of polluted environments. These efforts can take strength from key environmental principles, such as: the polluter-pays principle that prevents the externalization of environmental and health costs onto affected communities; the precautionary principle that calls for action to face risks even in the face of uncertainties; and the principle of good neighborliness that calls for prompt notification and consultation in the face of transboundary environmental disasters.

These principles were born in the environmental sphere, and, increasingly, they are being embraced by human rights courts and monitoring bodies in relevant cases.

My fifth and final point is how a human rights-based approach enables international cooperation in addressing environmental disasters. Modalities for international cooperation vary; from bilateral arrangements for notification and consultations on activities that pose transboundary environmental risks, to multilateral instruments such as the 1992 Convention on the Transboundary Effects of Industrial Accidents. In this regard, as in other areas of human rights policy, international cooperation and assistance are critical to safeguarding the rights of victims of environmental disasters.

To conclude, I wish to underline that the international community continues to face the significant challenge of making the right to live in a toxic-free environment a reality for all. In light of this, and especially in the context of environmental disasters, a human rights-based approach is key. This is because of the abilities of the human rights-based approach to strengthen governance, articulate duties of prevention, require prompt and independent investigations, secure effective remedies, and enable international cooperation and assistance.

Thank you for your attention.