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Ref.: Submission to provide inputs to the report of the Special Rapporteur on the human rights of internally displaced persons to the 56th session of the Human Rights Council.

It is with great honor that the Critical International Law Study Group (DiCri), affiliated to the ‘Faculty of Law’ of the Federal University of Rio Grande do Sul, Porto Alegre/RS – Brazil, and the members of the project entitled ‘In search of Climate Justice: causes, impacts and consequences of environmental disasters’, financed by the Brazilian Coordination for the Improvement of Higher Education Personnel – CAPES, within the scope of the PDPG public notice, hereby, submit information on climate change and displacement, aiming at assisting the Special Rapporteur on your thematic report to the Human Rights Council 56th Session.

First and foremost, we would like to highlight the problems related to climate change and the intensification of disasters, culminating in the emergence of ‘climate disasters’ – a category that is different from environmental disasters. Traditionally, disasters can be characterized by the result of the risk accumulation process, which arises from the combination of threats, conditions of vulnerability and insufficient capacity or measures to reduce the negative and potential consequences of the risk¹. They are normally divided into two categories: natural and anthropogenic disasters, being the difference between the two marked by the intervention or not of man in its occurrence. Despite this, with the increasing interference of man in nature, notably

¹ EIRD/ONU. Estrategia internacional para la reducción de desastres, Naciones Unidas. *Vivir con el Riesgo – Informe mundial sobre iniciativas para la reducción de desastres*. Secretaría. 2004.

through the overexploitation of the environment, it is understood that there are more and more anthropogenic environmental disasters.²

Nevertheless, here, we advance the understanding that there are ‘climate disasters’, which would be equally anthropogenic³, but would differ from environmental disasters since not all environmental disasters are caused by climate change. Some of them are caused by the direct action of man on nature without due preventive care, such as those arising from the collapse of mining tailings dams. On the other hand, we have never seen so many disasters whose origin is directly linked to climate change. We listed a few examples below.

In 2021, Andean glaciers suffered a reduction of around 30% compared to their area in 1980. The mega drought in central Chile was considered the longest in at least a thousand years; the drought in the Paraná/La Plata Basin, between Brazil and Argentina, was considered the worst since 1944; and in Mexico, more than 50% of the country was affected by a severe to exceptional drought in that year. Furthermore, in Argentina there were 6 to 8 consecutive days of heat waves in several places never seen before; In Brazil, due to the heat and exacerbated drought, approximately 2 million hectares were burned in the Pantanal region – the second highest number since 2012.⁴ Subsequently, in 2021, a series of floods in Panama affected 27,500 people; the Rio Negro, in the central region of the Brazilian Amazon, reached the highest water levels in 102 years of records. Furthermore, in Brazil, extreme rains in Bahia and Minas Gerais caused hundreds of deaths and the displacement of hundreds of thousands of people due to floods and landslides, resulting in an estimated loss of US\$3.1 billion.

In 2022, the alarming data persisted. For example, in Puerto Rico, Hurricane Fiona caused the loss of access to water services for hundreds of thousands of people, the deaths of at least 22 people, and an estimated \$2.5 billion in damage; Hurricane Lisa affected around 172,000 people in

² There are those who even defend the inappropriateness of using the term natural disasters today. DAASCENA, Fernanda; CARVALHO, Delton. A intensificação dos desastres naturais, as mudanças climáticas e o papel do Direito Ambiental. *Revista de Informação Legislativa*, Brasília a. 49 n. 193 jan./mar. 2012, p. 88-89.

³ In 2013, the Conference of the Parties (COP), the supreme body of the United Nations Framework Convention on Climate Change (in English, United Nations Framework Convention on Climate Change or UNFCCC), pointed out that there is a 95% certainty that the rising in global temperatures felt since the mid-20th century has an anthropogenic cause. See IPCC — Intergovernmental Panel on Climate Change. *Alterações Climáticas 2013: a base científica*. Geneva: UNEP, 2013. Available at: https://www.ipcc.ch/site/assets/uploads/2018/03/ar5_ar5_wg1_spmportuguese.pdf. Accessed on 01 apr. 2024

⁴ OMM. *State of the Climate in Latin America and the Caribbean*. 2022. Available at: <https://public.wmo.int/en/our-mandate/climate/wmo-statement-state-of-global-climate/LAC>. Accessed on 23 Sept. 2023.

Belize, which represents almost 39% of the population.⁵ Also in 2022, Argentina and Paraguay experienced unprecedented wildfires, with a 283% and 258% increase, respectively, in the number of hot spots detected compared to the 2001 to 2021 average, emitting around 5 and 12 megatons of carbon to the atmosphere, respectively.

In Brazil, the state of Amazonas recorded the highest total carbon emissions from fires between July and October in the last 20 years, totaling over 22 megatons.⁶ Also in 2022, in Costa Rica, a landslide occurred after heavy rains, resulting in 10 deaths; in Brazil, in February, intense rains resulted in more than 230 deaths. Still in Brazil, exceptionally heavy rains in May caused 130 deaths, affected around 130,000 people and led the city of Recife to declare a state of emergency; floods, landslides and flash floods in Colombia resulted in 266 deaths, affected 864 municipalities and 645,930 people, 5207 houses were destroyed and 106,574 were damaged.⁷

In 2023, other catastrophic scenarios were envisioned. In September 2023, in the Brazilian state of Rio Grande do Sul, heavy rains generated by cyclones affected the population, causing floods and destruction of entire cities bordered by the Taquari River, which affected 402,297 people – of these, 5,216 were left homeless and 49 lost their lives.⁸ Such situations are not limited to Latin America and the Caribbean. In August 2023, for example, the deadliest wildfire in the United States of America in more than a century hit Hawaii. A combination of months of drought, extreme winds and non-native grasses that acted like kindling fanned the sparks. The fire killed at least 99 people and caused many others to seek refuge at sea, and in other regions.⁹

In August 2023, due to extreme drought and high temperatures, forest fires during the summer in the northern hemisphere reached more than 38 km² of Canada, requiring thousands of people to leave their homes due to the risks and the smoke, which was not limited to the country's borders, reaching the United States and leading to a situation of calamity in cities, such as New

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ RIO GRANDE DO SUL. *12h*: Balanço da Defesa Civil sobre chuvas intensas e enchentes no RS contabiliza 49 mortes. 2023. Available at: <https://www.estado.rs.gov.br/12h-balanco-da-defesa-civil-sobre-chuvas-intensas-e-enchentes-no-rs-contabiliza-49-mortes-6513102762205>. Accessed on 23 Sept. 2023.

⁹ CNN BRASIL. Combinação devastadora de condições desencadeou o incêndio mortal no Havaí. *CNN*, 2023. Available at: <https://www.cnnbrasil.com.br/internacional/combinacao-devastadora-de-condicoes-desencadeou-o-incendio-mortal-no-havai/>. Accessed on 23 Sept. 2023.

York.¹⁰ Problems are also seen in Europe as torrential rains in August caused floods and landslides in Italy and Slovenia, where losses are expected to exceed 500 million euros.¹¹ In September 2023, floods in Libya demonstrated that climate disasters also occur on the African continent. These, specifically, caused the death of approximately 20,000 people, not counting the material damage caused by the destruction of the port of Derna.¹²

Therefore, we understand that it is imperative to search for mechanisms that can address these issues, either before or after they occur. When it comes to prevention, indeed there should be ways to force different subjects at international and domestic levels to commit themselves to combating climate change, above all, due to man's collaboration in this scenario. But there are also ways to deal with some of the issues related to climate disasters after they occur, just as it was asked by this Special Rapporteur to point out. Specifically related to people reallocated due to climate disasters, which, as we have noted from the examples brought, is not an unusual situation, but unfortunately a very frequent one, we shall point to the existence of some laws in Brazil aimed at mitigating the losses suffered by them.

The first example that we want to draw your attention to is at the municipal level: the creation of the *Emergency Recovery and Humanitarian Aid Program* for calamity or emergency situations, approved by the city council of Porto Alegre/RS (Bill no. 031/23). This program was intended to reduce the impacts of events occurring on the lives of people directly affected by climate disasters, provided for in the Brazilian Disaster Classification and Coding table, aiming to guarantee minimum conditions for the population whose housing, dignity and subsistence circumstances; and contribute to the repair of losses and damages arising from events such as these.¹³

¹⁰ G1. Incêndio florestal de larga escala atinge novamente o Canadá. *G1*, 18 ago. 2023. Available at: g1.globo.com/mundo/noticia/2023/08/18/incendio-florestal-de-larga-escala-atinge-novamente-o-canada.ghtml. Accessed on 23 Sept. 2023

¹¹ EURONEWS. Inundações atingem norte da Europa, incêndios consomem o sul. *Euronews*, 5 ago. 2023. Available at: <https://pt.euronews.com/2023/08/05/inundacoes-atingem-norte-da-europa-incendios-consomem-o-sul>. Accessed on 23 Sept. 2023

¹² BBC Brasil. Enchentes na Líbia: mortes no desastre 'podem chegar a 20 mil'. *BBC*, 14 set. 2023. Available at: <https://www.bbc.com/portuguese/articles/cq5dp1j1y80o>. Accessed on 23 Sept. 2023

¹³ CANTO, Andressa. Aprovado por unanimidade Programa de Recuperação aos atingidos pelas chuvas. *Câmara Municipal de Porto Alegre*, Porto Alegre 28 set. 2023. Available at: <https://www.camarapoa.rs.gov.br/noticias/aprovado-por-unanimidade-programa-de-recuperacao-aos-atingidos-pelas-chuvas>. Accessed on 01 Apr. 2024.

To this end, this Program created temporary financial benefits granted by the municipal government: a one-time aid of up to R\$3,000 for the purchase of furniture and appliances; a supportive housing allowance for those whose housing has been compromised, around R\$700 for three months, which can be extended for the same period; a one-time aid of up to R\$3,000 for the acquisition, by merchants, of goods related to the economic activity of stores affected by the floods.¹⁴

It also prescribes for the possibility of families to be relocated because of their housing conditions previous to climatic disasters, which were normally located in places unsuitable for housing, such as on the slopes of rivers or hills, built without authorization from the city hall. In this case, the program foresees the provision by the municipality of a ‘housing of social interest’, which entails the acquisition and availability of modular housing or housing developed with rapid construction technology on land owned either by the municipality or the beneficiary himself.¹⁵

In the municipality of Cruzeiro do Sul, also in the state of Rio Grande do Sul, there is similar legislation. This is Law no. 2,024/23, which authorizes the municipal government to grant monthly social rent to families affected by floods and floods on the Taquari River, resulting from the disaster classified as intense rains, in the amount of R\$ 800.00 for period of six months. The law is aimed at those people who have lost their homes or those whose homes have been recognized as unsuitable for habitation following the weather event, in an attempt to keep people in the municipality.¹⁶

This measures by the municipalities of Porto Alegre and Cruzeiro do Sul are not unique in the country, with other similar examples, such as the law of the state of Pará of 2022, Decree no. 2,117, which regulates the granting of eventual benefits to families in social vulnerability resulting from public calamities and emergency situation, caused by heavy rains that caused landslides, floods, floods and flooding, which occurred in the first four months of 2022 in the State. This state decree, for example, also provides for the granting of benefits to people displaced due to climate disasters in a single installment, in the amount of R\$ 1,212.00 per family, so that they could have

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ BRASIL. Cruzeiro do Sul. *Lei Municipal n. 2.024/23*. Available at: https://cruzeiro.rs.gov.br/uploads/norma/25021/Lei_n_2024_03_2023.pdf. Accessed on 01 Ap. 2024.

the financial capacity to rebuild their damaged homes. The benefit, however, was limited to families earning up to three minimum wages.¹⁷

In a way, these prescriptions meet the provisions of the National Civil Protection and Defense Policy – PNPDEC, created by Brazilian Federal Law no. 12,608 of 2012, which points out among its objectives set for in article 5 the need of “combating the occupation of environmentally vulnerable and risk areas, and promoting the relocation of the population residing in these areas” (section XI); and “encouraging initiatives that result in the allocation of housing in a safe location” (section XII, and also replicated in article 14).¹⁸

Another interesting project that is being debated in Brazil is the creation of mandatory insurance to compensate for disasters caused by rain. According to the text of Bill no. 1,410/22, insurance will be charged to all residential properties, whether located in urban or rural areas, and will have a reduced rate for those occupied by low-income residents (that is, those registered in the Federal Government Social Programs through “CadÚnico” whose monthly per capita family income is less than or equal to 0.5 of the minimum wage). According to the proposal, the price paid by the insured will be based on a previously defined rate on the sale value of the property. Sch rate would be higher in areas indicated in the city plan as more susceptible to the occurrence of landslides, floods or related climate disasters.¹⁹

This point, in fact, we believe may give rise to debate, given that the areas normally susceptible to climate damage are located in marginalized areas²⁰, whose constructions are not foreseen in the city's plan, which, in a certain way, will not bring benefits to the vulnerable population, as they will be left outside this legislation. On the other hand, we do not question the

¹⁷ BRASIL. Estado do Pará. *Decreto n. 2.117/2022*. Available at: <https://leisestaduais.com.br/pa/decreto-n-2117-2022-para-regulamenta-a-concessao-de-beneficio-eventual-as-familias-em-vulnerabilidade-social-decorrente-de-calamidade-publica-e-de-situacao-de-emergencia-ocasionadas-por-fortes-chuvas-que-causaram-deslizamentos-inundacoes-enxurradas-e-alagamentos-ocorridos-no-primeiro-quadrimestre-de-2022-no-estado-do-para>. Accessed on 01 Apr. 2024.

¹⁸ BRASIL. *Lei Federal n. 12.608/2012*. Available at: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/112608.htm. Accessed on 01 Apr. 2024.

¹⁹ BRASIL Câmara dos Deputados. Projeto cria seguro obrigatório para indenizar desastres causados por chuvas. *Agência Câmara de Notícias*, Brasília, 19 Sept. 2022. Available at: <https://www.camara.leg.br/noticias/897970-projeto-cria-seguro-obrigatorio-para-indenizar-desastres-causados-por-chuvas/>. Accessed on 01 apr. 2024.

²⁰ According to the Brazilian Geological Survey, around four out of every hundred Brazilians live in areas exposed to landslides, floods, landslides, etc. This is because 1,601 cities in the country are classified as "high and very high risk" of disasters of this type, which is equivalent to 28.74% of the national territory. See ALVES, Jones. Em vidas e moradias irregulares, as famílias desabam nas tragédias. *Consultor Jurídico*, 5 jun. 2022. Available at: <https://www.conjur.com.br/2022-jun-05/vidas-moradias-irregulares-familias-desabam-tragedias/>. Accessed on: 01 Apr. 2024

benefits of the Bill itself, which, certainly, in a context of climate disasters, is deemed very important.

In light of the inputs provided, we hope to have helped the Special Rapporteur with enough information to ponder over some measures that have been adopted to help families affected by climate disasters after their occurrence in Brazil aiming at presenting a comprehensive report over the matter to the Human Rights Council.

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