

# Home, Territory, and Identity: The Legal Framework and Lessons Learned from the 2016-17 Seismic Events in the Marche Region

Ivan Allegranti\*

### Abstract

This paper examines the recognition of the ‘right to remain in your own homeland’ within international law. This right is grounded in Art 13 of the Universal Declaration of Human Rights and is linked to the principle of self-determination under Art 1 of the UN Charter. This right reflects the deep, multidimensional ties between individuals, communities, and territory, comparable to the ‘plural property’ concept in the European and Italian law. The case study of the Marche region, after the 2016 earthquake, illustrates the practical challenges of balancing the relocation of businesses in an emergency with the preservation of territorial identity and economic continuity. Although temporary displacement was necessary, inadequate planning, stakeholder engagement, and recognition of community bonds undermined recovery. The experience reveals the limits of purely procedural relocation strategies, highlighting the need for holistic, human-centred reconstruction policies. Protecting the right to remain or return ensures that post-disaster measures safeguard not only safety and efficiency but also the cultural, social, and economic fabric of affected communities.

### I. Introduction

In early May 2023, a flood struck the entire Emilia-Romagna region (Italy), causing many fatalities and necessitating the reconstruction of entire cities.<sup>1</sup> Less than a year prior to this, in September 2022, another flood hit the Marche coastline in the provinces of Ancona, Pesaro, and Urbino (Italy),<sup>2</sup> affecting areas that had been viously ‘spared’ by the devastating seismic events of 2016-17.<sup>3</sup> Over the past two years, more than fifty natural hazards have occurred worldwide. However, likely due to climate change, this number does not seem to be decreasing.<sup>4</sup>

\* Lecturer in Disaster Risk Management in the EU at the Faculty of Law, Comenius University Bratislava.

<sup>1</sup> P. Biondani, ‘Alluvione Emilia-Romagna, l’allarme inascoltato degli esperti: “Metà regione è a rischio”’ *L’Espresso*, 19 May 2023, available at <https://tinyurl.com/23ru3tkr> (last visited 31 January 2026); IFRC, ‘Italy Flood 2023 DREF Operation MDRIT004’ (10 June 2023), available at <https://tinyurl.com/msbsc235> (last visited 31 January 2026).

<sup>2</sup> Redazione, ‘Alluvione Marche, i dati di monitoraggio del Cnr-Irpi’ *Il Giornale della Protezione Civile*, 17 September 2022, available at <https://tinyurl.com/denb38pp> (last visited 31 January 2026).

<sup>3</sup> INGV, ‘Sequenza in Italia centrale: aggiornamento del 28 aprile’, 27 April 2017, available at <https://tinyurl.com/ywdv7tp6> (last visited 31 January 2026).

<sup>4</sup> United Nations Office for Disaster Risk Reduction, *Human Cost of Disasters 2000–2019*

The focus of these pages is to understand that whenever extraordinary events like the ones described occur, affected areas face the challenging task of reconstruction, with significant consequences for citizens' lives and their environments.<sup>5</sup>

## II. Disaster, Loss and Place Attachment

Individuals affected by a disaster experience two profound traumas,<sup>6</sup> in addition to the hard-to-repair physical damage to property and the psychological harm. The first occurs in the moments after the disastrous event, when they realize that everything they have built up over a lifetime has been destroyed in a matter of moments, resulting in both economic and psychological harm.

The second trauma arises at the start of the reconstruction process and persists until its completion. In this latter scenario, the desire to return to normality, to see rebuilt landscapes without interruption,<sup>7</sup> is deeply felt among the victims.<sup>8</sup> Thus, evacuees rarely accept<sup>9</sup> the idea of abandoning —<sup>10</sup> either voluntarily or forcibly,<sup>11</sup> for an indefinite period —<sup>12</sup> a place considered as 'sacred' as their own home or land. From the above, it becomes clear that the relationship often established between a home and its owner is not solely based on the ownership of the property but also encompasses the intangible and emotional bond between them.<sup>13</sup> This phenom

(2020), 13.

<sup>5</sup> K. Boersma et al, 'The Dynamics of Power in Disasters Response Network' 12 *Risk, Hazards & Crisis in Public Policy*, 419 (2021).

<sup>6</sup> S. Nettleton, 'Losing a Home Through Mortgage Repossession: The Views of Children' 2 *Children and Society*, 82 (2001); K.A.S. Wickrama and V. Kaspar, 'Family Context of Mental Health Risk in Tsunami-Affected Mothers: Findings from a Pilot Study in Sri Lanka' 66 *Social Science & Medicine*, 994 (2008); C. Rollero et al, 'Does Place Attachment Affect Social Wellbeing?' 60 *Revue Européenne de Psychologie Appliquée*, 233 (2010); S.C. Rush et al, 'Rebuilding Sustainable Communities for Children and Families after Disaster: Recommendations from Symposium Participants in Response to the April 27<sup>th</sup>, 2011 Tornadoes' 51 *Community Mental Health Journal*, 132 (2015).

<sup>7</sup> M. Clemente and L. Salvati, '“Interrupted” Landscapes: Post-Earthquake Reconstruction in Between Urban Renewal and Social Identity of Local Communities' 9 *Sustainability*, 2015 (2017).

<sup>8</sup> See, eg, the association 'IO NON CROLLO', established in Camerino after the seismic events of October 2016, available at <https://tinyurl.com/4s6fa89h> (last visited 31 January 2026); L. Pettinari, *Diario di Bordo di una Terremotata*, available at <https://tinyurl.com/2sbhurtu> (last visited 31 January 2026).

<sup>9</sup> 'È morta nonna Peppina, la donna simbolo del terremoto 2016 aveva 98 anni. Dallo sfratto alla vittoria: la sua battaglia per la casa' *Il Fatto Quotidiano*, 19 November 2021, available at <https://tinyurl.com/35rs4hda> (last visited 31 January 2026); 'Terremoto, convalidato l'arresto dello sfollato che non vuole lasciare Arquata. Il legale: “Assurdo”' *Il Sole 24 Ore*, 1 February 2017, available at <https://tinyurl.com/4dpzs92n> (last visited 31 January 2026).

<sup>10</sup> A. Chiappanuvoli, 'Gli sfollati del terremoto tra disagio e voglia di una vita normale' *Internazionale*, 17 December 2016, available at <https://tinyurl.com/42xtr8dy> (last visited 31 January 2026).

<sup>11</sup> I. Allegranti, 'Delocalizzazione commerciale in località colpite da calamità naturali: uno sguardo comparatistico fra Italia e Giappone', in C. Latini ed, *Solidarietà ed Emergenze* (Napoli: Editoriale Scientifica, 2022), 175-184.

<sup>12</sup> *ibid*

<sup>13</sup> C. Tenella Sillani, 'I diversi profili del diritto di proprietà' 4 *Rassegna di diritto civile*, 1060

is called ‘place attachment’.<sup>14</sup>

On this matter, European civil doctrine discusses the concept of ‘plural property’ rather than ‘singular property’.<sup>15</sup> It seems that today, one can assert that property rights have a four-dimensional nature as this absolute right involves: the relationship between the object of the right, public order, and the social function it serves;<sup>16</sup> the direct relationship between the owner, property, and third parties;<sup>17</sup> the material relationship between the owner and the property,<sup>18</sup> and, finally, the inner (emotional) bond that ties the owner to the property.<sup>19</sup>

In the following pages, employing an evolutionary and systematic interpretation of international conventions, the principles from which the existence of a ‘right to remain in one’s homeland’ can be deduced will be explored. Among the aim of this new right, there is the enabling of the sustainable development of the human being.

### III. International Instruments and the Connection between Territory and Local Communities

The first international instrument to (partially) govern ‘the right to remain in one’s homeland’ was the 1948 Universal Declaration of Human Rights (hereinafter, ‘Declaration’),<sup>20</sup> whose Art 13 establishes the freedom of movement and residence of every individual within the borders of each state, as well as the right of every human being to leave any country, including their own, and to return to it later.<sup>21</sup>

Therefore, the ‘right to remain in one’s homeland’ falls under the category of

(2013).

<sup>14</sup> C. Qing et al, ‘Stay in Risk Area: Place Attachment, Efficacy Beliefs and Risk Coping’ 19 *International Journal of Environmental Research and Public Health*, 2375 (2022).

<sup>15</sup> P. Häberle, ‘Vielfalt der Property Rights und der verfassungsrechtliche Eigentumsbegriff’, in Id, *Rechtsvergleichung*, 496 (1984); P. Perlingieri, *Introduzione alla problematica della proprietà* (Napoli: Edizioni Scientifiche Italiane, 2011), 6.

<sup>16</sup> B. Sirgiovanni, ‘Dal diritto sui beni comuni al diritto ai beni comuni’ *Rassegna di diritto civile*, 240 (2017).

<sup>17</sup> F. De Martino, ‘Beni in generale-Proprietà’, in A. Scialoja and G. Branca eds, *Commentario del Codice Civile, Libro Terzo “Della proprietà” (artt. 810–956)* (Roma: 1946), 122; C.M. Bianca, *Diritto civile*, VI (Milano: Giuffrè, 2021), 131 and 159; P. Perlingieri, *Manuale di diritto civile* (Napoli: Edizioni Scientifiche Italiane, 2020), 235; C. Lorenzetti, ‘In tema di immissioni e di normale tollerabilità’ 2 *Giurisprudenza italiana*, 653 (1968); A. Procida Mirabelli, ‘La proprietà come rapporto’ *Rassegna di diritto civile*, 364 and 366 (1998); F. Vassalli, ‘Il diritto di proprietà’ 2 *Studi giuridici*, 475 (1939).

<sup>18</sup> To be the rightful owner of the immovable property.

<sup>19</sup> P. Perlingieri, *La personalità umana nell’ordinamento giuridico* (Napoli: Edizioni Scientifiche Italiane, 1972), 155.

<sup>20</sup> UN General Assembly, ‘Universal Declaration of Human Rights’, 10 December 1948, 217 A (III).

<sup>21</sup> G. Marques Pedro, *The Human Right to Leave: But Whereto?* (Uppsala: Doctoral Thesis, Uppsala Universitet, 2022), 64; for the European framework see also Art 13 ECHR, Art 2 of Protocol No 4 ECHR, and Art 45 of the Charter of Fundamental Rights of the European Union.

rights concerning an individual's freedom to move within a given state.<sup>22</sup> Specifically, the right to enter, stay, and leave a particular nation are closely related and indivisible rights, with significant implications for many other fundamental rights and freedoms outlined in the Declaration.<sup>23</sup>

Following this, on December 16, 1966, the General Assembly adopted the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the Covenant on Civil and Political Rights.<sup>24</sup> In particular, Art 12 of the Covenant on Civil and Political Rights establishes the right to freedom of movement and choice of residence within a state for every person legally residing in that territory. Furthermore, according to the article in question, every human being has both the right to leave any country (including their own)<sup>25</sup> and the right not to be arbitrarily deprived of the right to enter their own country.

Later, the 1967 International Convention on the Elimination of All Forms of Racial Discrimination against Women<sup>26</sup> included in Art 5 the express obligation for the Convention's states parties to guarantee equality before the law for everyone, without distinctions of race, color, national or ethnic origin, regarding the enjoyment of the right to leave any country (including their own) and return to it.

In the early days of modern international treaty law, 'the right to remain in one's homeland' was understood as to provide individuals: a) the freedom to choose, within a state of which they are a citizen, a place of residence; b) the freedom to move freely within a specific national territory of which they are a citizen (without being arbitrarily detained or subjected to inhumane and degrading treatment or torture);<sup>27</sup> c) the right to enter and return to their state of residence; and d) finally, the right to emigrate.

However, it is with the adoption of the Rio Declaration,<sup>28</sup> the Millennium

<sup>22</sup> R. Higgins, 'The Right in International Law of an Individual to Enter, Stay and Leave a Country' 49 *International Affairs*, 3, 342 (1973).

<sup>23</sup> Art 13 of the *Universal Declaration of Human Rights* is closely linked to the following provisions: Art 2 (non-discrimination), Art 3 (personal liberty), Art 4 (prohibition of slavery), Art 9 (freedom from arbitrary arrest, detention, or exile), Art 14 (asylum), Art 15 (right to change nationality), and Art 17 (right to property).

<sup>24</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, *United Nations Treaty Series*, vol 999, 171.

<sup>25</sup> Art 12(3) of the *International Covenant on Civil and Political Rights* provides that the only limitations to the exercise of the rights therein are those prescribed by law and necessary to protect national security, public order, public health or morals, or the rights and freedoms of others.

<sup>26</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, *United Nations Treaty Series*, vol 1249, 13.

<sup>27</sup> n 22 above.

<sup>28</sup> UN General Assembly, *United Nations Conference on Environment and Development*, Rio de Janeiro, 3 March – 14 June 1992, A/CONF.151/26/Rev.1 (Vol I), 31 *International Legal Materials*, 874.

Development Goals (MDG),<sup>29</sup> Hyogo Framework,<sup>30</sup> the Paris Agreement,<sup>31</sup> the subsequent Sendai Framework for Disaster Risk Reduction<sup>32</sup> and the 2030 Agenda<sup>33</sup> that the international community lays the groundwork for a more modern and human-centric reflection on human rights, property rights, and the surrounding environment.

#### IV. The Conceptual Evolution of the Bond Between Territory and Local Communities

The international instruments examined here highlight the importance of the near-indissoluble bond established between a territory and the local community that inhabits it.

Firstly, the Rio Declaration of 1992 stipulates that humans have the right to live in harmony with nature.<sup>34</sup> Similarly, sustainable development should equally meet the needs related to the environment and the development of present and future generations.<sup>35</sup> Thus, achieving sustainable development implies that environmental protection will form an integral part of the development process, rather than being considered in isolation.<sup>36</sup>

Then, the Millennium Development Goals (MDGs) marked a permanent shift in the UN's approach to the world's population, drawing closer and uniting with it.<sup>37</sup> The MDGs require all states to respect the territorial integrity of every nation, which naturally encompasses the territory-resident community nexus.<sup>38</sup>

In contrast, the Hyogo Framework aims to protect individuals in their territories of residence, especially after the occurrence of a natural disaster. Consequently, post-disaster reconstruction must ensure the protection of the 'territory-people' bond, viewing them as inseparable concepts.<sup>39</sup>

A paradigm shift, however, occurred with the Paris Agreement (hereinafter, 'Agreement'). This instrument recognizes the 'territory-person' duality as a fundamental

<sup>29</sup> UN General Assembly, *Millennium Development Goals*, A/RES/55/2, New York, 18 September 2000.

<sup>30</sup> UN General Assembly, *Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters*, Hyogo, 22 January 2005, A/CONF.206/6.

<sup>31</sup> Conference of the Parties, *Adoption of the Paris Agreement*, Paris, 13 December 2015, UN Doc FCCC/CP/2015/L.9/Rev.1.

<sup>32</sup> UN General Assembly, *Sendai Framework for Disaster Risk Reduction 2015–2030*, Sendai, 2015.

<sup>33</sup> UN General Assembly, *Transforming Our World: the 2030 Agenda for Sustainable Development*, New York, 21 October 2015, A/RES/70/1.

<sup>34</sup> *Rio Declaration on Environment and Development*, Principle 1 (1992).

<sup>35</sup> *ibid* Principle 3.

<sup>36</sup> *ibid* Principle 4.

<sup>37</sup> I. Allegranti, 'Un approccio antropocentrico per superare la crisi del multilateralismo' 2 *OSORIN Working Papers*, 61 (2022).

<sup>38</sup> *Millennium Development Goals*, Preamble para 4 (2000).

<sup>39</sup> n 30 above, 3.

human right.<sup>40</sup> In doing so, it compels states, while addressing the climate crisis, to adopt an approach for each action aimed at achieving the Agreement's goals that takes into account the fundamental human rights, including the relationship between individuals and the territories they inhabit. Hence, the climate neutrality and the Agreement's objectives cannot be achieved without upholding the essential human rights, especially preserving the bond that ties a population to the territory it inhabits.

The Sendai Framework further broadens the operational scope of this right by establishing the principle of *Building Back Better* (aka reconstructing better than before).<sup>41</sup> This principle introduces a new obligation (that anyone involved in future construction must meet) and a contemporaneous objective evaluation method.<sup>42</sup> Therefore, any new construction anticipating human settlement must not only respect the pre-existing bond between territory and community, but also introduce structural improvements over what previously existed.<sup>43</sup>

Lastly, the 2030 Agenda, with Sustainable Development Goals 11 ('Make cities and human settlements inclusive, safe, resilient, and sustainable')<sup>44</sup> and 13 ('Take urgent action to combat climate change and its impacts'),<sup>45</sup> along with their respective targets and studied indicators, lays the framework for implementing measures globally. These measures aim to uphold this newly recognized right, which seeks to protect the often unbreakable bond between a territory, its community, and its inhabitants.<sup>46</sup>

From the analysis of these international instruments, it is clear that there is a universal acknowledgment of the bond that forms between a specific territory and its community. This bond is not just rooted in the objective fact that a certain house was built in an particular physical location. It requires more. As demonstrated

<sup>40</sup> *Paris Agreement*, Preamble, which recognises that, in promoting measures to address climate change, States must consider their respective obligations regarding human rights, including the right to health, the rights of indigenous peoples, migrants, children, local communities, persons with disabilities, vulnerable individuals, gender equality, women's empowerment, and intergenerational equity.

<sup>41</sup> E. Maly, 'Building Back Better with People-Centered Housing Recovery' 29 *International Journal of Disaster Risk Reduction*, 84 (2018).

<sup>42</sup> n 32 above, para 20; E. Maly, 'Rethinking "Build Back Better" in Housing Reconstruction: A Proposal for "People-Centered Housing Recovery"' 56 *IOP Conference Series: Earth and Environmental Science*, 012025 (2017).

<sup>43</sup> E. Van der Sijde, 'What Can (South African) Property Lawyers Learn from Resilience Thinking? An Exploratory Note on the Aftermath of the Covid-19 Pandemic', in Z.Z. Boggenpoel et al eds, *Property and Pandemics: Property Responses to Covid-19* (Cape Town: 2021), 352.

<sup>44</sup> F. Abastante et al, 'Pursuing the SDG11 Targets: The Role of the Sustainability Protocols' 7 *Sustainability*, 2 (2021); F. Abastante, 'How Covid-19 Influences the 2030 Agenda: Do the Practices of Achieving the Sustainable Development Goal 11 Need Rethinking and Adjustment?' 26 *Valori e Valutazioni*, 15 (2020).

<sup>45</sup> J. Gupta and C. Vegelin, 'Sustainable Development Goals and Inclusive Development' 16 *International Environmental Agreements*, 441 (2016).

<sup>46</sup> P. Perlingieri, *Il diritto civile nella legalità costituzionale*, III (Napoli: Edizioni Scientifiche Italiane, 2020), 77; R. Gambino and M. Sargolini, 'La rigenerazione di nuclei e borghi storici dell'Italia centrale danneggiati dal sisma del 2016' 2 *Ri-vista. Ricerche per la progettazione del paesaggio*, 223 (2017).

by property rights, it's also essential to establish an emotional connection with the territory in question.

## V. A New Concept of Home

In light of what has been discussed so far, a home<sup>47</sup> is not just a mere physical shelter protecting humans from the elements<sup>48</sup> but rather it lays the foundation for an individual's development within a particular territory.<sup>49</sup>

From infancy onwards, a home provides warmth and protection against factors that could lead to premature death. As a child, the home becomes the foundation from which everything - good memories, bad memories, learning abilities, and more - originates. During adolescence, the home plays a similar role, minus the protective aspect required by an infant. For adults, a home is a platform for achieving dreams within society, for society, and through society. And in old age, a home is a place of final rest.<sup>50</sup>

Thus, a home embodies both rights<sup>51</sup> and obligations,<sup>52</sup> independent of the state it is located in, the nationality of its owner, their income, religion, gender, race, or health status.<sup>53</sup> A home represents hope, even if that hope is shattered within moments due to a natural hazard.<sup>54</sup>

In the light of the international community's recognition of the current state of our Earth - the very home of all humans - the 'right to remain in one's homeland' has now become intrinsic to the same 'values and fundamental freedoms' as proclaimed in the 1948 Universal Declaration of Human Rights. Moreover, this newly recognized right encompasses the right to adequate housing. Therefore, if this right is not upheld, both the right to live in appropriate accommodations and the right to reside in a chosen territory where an individual can achieve sustainable human development are undermined.<sup>55</sup>

<sup>47</sup> CESCR, *General Comment No 4: The Right to Adequate Housing (Art. 11(1) of the Covenant)*, 13 December 1991, para 2; *ibid*, paras 7-8.

<sup>48</sup> L. Fox, 'The Meaning of Home: A Chimerical Concept or a Legal Challenge?' 4 *Journal of Law and Society*, 581 (2002); L.F. O'Mahony, 'The Meaning of Home: From Theory to Practice' 2 *International Journal of Law in the Built Environment*, 161 (2013).

<sup>49</sup> J. Pallasmaa, 'Identity, Intimacy, and Domicile – Notes on the Phenomenology of Home', in D. Benjamin ed, *The Home: Words, Interpretations, Meanings and Environments* (Aldershot: 1995), 135; F. Samanani and J. Lenhard, 'House and Home', in F. Stein et al eds, *The Cambridge Encyclopedia of Anthropology* (2019), available at <https://tinyurl.com/3xm53kz8> (last visited 31 January 2026).

<sup>50</sup> UN-Habitat, *The Right to Adequate Housing* (Geneva: 2009), 9.

<sup>51</sup> n 50 above, 6.

<sup>52</sup> See, eg, the duty not to cause excessive emissions under Art 844 of the Italian Civil Code.

<sup>53</sup> n 38 above.

<sup>54</sup> UNFCCC, *Santiago Network for Loss and Damage* (2019), available at <https://unfccc.int/santiago-network> (last visited 10 June 2023); UNFCCC, *Transnational Committee TC2 Bonn*, available at <https://unfccc.int/event/tc2> (last visited 31 January 2026).

<sup>55</sup> n 50 above, 6; n 47 above, 2.

Furthermore, failing to recognize this right is similar to denying the principle of self-determination, especially in communities affected by natural hazards.<sup>56</sup> Traditionally, within a nation, different groups of citizens choose to settle in various parts of the state.<sup>57</sup> This decision aims at fostering socio-economic and cultural development for that population segment.<sup>58</sup> If, due to external factors, the bond between the people and their territory breaks, those affected should be granted the right to remain in that place, as it is their chosen location to spend their lives. Such situations, as described above, must be safeguarded by the international community.<sup>59</sup>

## VI. Human Sustainable Development

The protection by the international community of the 'right to remain in one's own homeland' allows people who live in a certain territory to continue their settlement in the chosen place, both by carrying out work and productive activities<sup>60</sup> and by building relationships and social ties with fellow citizens located there, thus preserving their cultural roots.<sup>61</sup> This strengthens the bond between individuals and their territory, thus promoting human development.<sup>62</sup>

Human sustainable development aims to create an environment in which everyone can enjoy a long, healthy, productive, and creative life.<sup>63</sup> In this sense, human sustainable development can be understood as the ability to expand and enlarge people's choices<sup>64</sup> and is defined as a process of promoting and expanding

<sup>56</sup> United Nations, *Charter of the United Nations and Statute of the International Court of Justice* (New York: 1946), Art 1(2); S. Rodriguez, 'Le sfide degli stati contemporanei fra auto-determinazione e separatismi europei' 2 *Nomos – L'attualità del diritto*, 1 (2019); see also Art 12 of the *International Covenant on Civil and Political Rights*.

<sup>57</sup> n 50 above, 8.

<sup>58</sup> UN General Assembly, *Declaration on the Granting of Independence to Colonial Countries and Peoples*, 1514 (XV), New York, 1960.

<sup>59</sup> G. De Vergottini, 'L'auto decisione negata' 22 *Ricerche Sociali*, 97-106 (2015); L. Vincente, L. Ruggeri and K. Kashiwazaki, 'Beyond Lipstick and High Heels: Three Tell-Tale Narratives of Female Leadership in the United States, Italy and Japan' 3 *Hastings Women's Law Journal*, 1 (2021); I. Allegranti, 'The Right to Remain and Produce in Your Homeland in Light of Article 8 of the European Convention on Human Rights: The European Court of Human Rights Case Law and the Italian Constitution' 3 *Athens Journal of Law*, 349-360 (2022); Pope Francis, *Angelus*, Piazza San Pietro, Sunday 24 September 2023, available at <https://tinyurl.com/yc5v984t> (last visited 31 January 2026).

<sup>60</sup> Eur. Court H.R., *Fernández Martínez v Spain* App no 56030/07, Judgment of 12 June 2014, para 109; I. Allegranti, 'L'attualità di un caso 20 anni dopo (Nota a Durini c. Italia, Corte edu, 12 gennaio 1994, n. 19217/91)' 5 *Rivista Giuridica dell'Edilizia* (2023) (forthcoming).

<sup>61</sup> A.M. Dussias, 'Does the Right of Self-Determination Include a Right to Homeland?' 1 *Syracuse Journal of International Law and Commerce*, 92 (2004).

<sup>62</sup> United Nations Housing Rights Programme, *Housing Rights Legislation: Review of International and National Legal Instruments* (Nairobi: 2002), 54; *European Charter for Rural Areas*, Draft Recommendation, 20 March 1996, para 1.

<sup>63</sup> M. Haq, *Reflections on Human Development* (New York: Oxford University Press, 1995), 95.

<sup>64</sup> K. De Feyter, *Towards a Framework Convention on the Right to Development* (Berlin: Springer, 2013), 1; S. Fukuda-Parr, 'Human Rights and Politics in Development', in M. Goodhart ed,

human capabilities (opportunities), where the term ‘sustainable’ refers to environmental and social sustainability.<sup>65</sup>

Therefore, any development process should aim to reduce poverty, inequality, and conflict, as well as promoting inclusion and participation while considering environmental stress and ecological conditions. To achieve sustainable development, four criteria must be met: a) the individual must be central in economic decisions focused both on long-term goals and on environmental respect; b) new technologies must be environmentally rational; c) the environmental safeguard criterion must be adopted in all political decisions made; d) decisions must be made together with local communities as they are the ‘guardians’ of local traditions and best know their territories.<sup>66</sup> The right to personal and social development, as stated by the UNDRTD, concerns human autonomy, gender equality, equitable growth, participation, and poverty reduction.<sup>67</sup>

However, it is thanks to the 2030 Agenda that the indissoluble relationship between the human being and the surrounding environment is deemed necessary.<sup>68</sup> Therefore, a person, in its essence, can develop sustainably if the earthly balance between the (healthy) environment and the population is not broken.<sup>69</sup> In the context of the human development paradigm, there are four main elements that emerge as fundamental to achieve the actual development of the human person.

Firstly, productivity plays a crucial role as individuals must be empowered to increase their productive capacity and actively participate in the process of income generation and paid employment: economic growth is a dimension inherent in human development models. A second element is equality, with the idea that every individual must have access to equal opportunities. To this end, any barrier preventing access to economic and political opportunities must be eliminated, so that everyone can participate and benefit from such opportunities. Moreover, as a third element, the sustainability of human development is manifested by access to opportunities not only for current generations but also for future ones.<sup>70</sup>

This requires the renewal of all forms of capital - be it physical, human, or environmental - to be preserved over time. Lastly, the enhancement of development

*Human Rights: Politics and Practice*, 3rd ed (New York: Oxford University Press, 2016), 198-215; see also UN General Assembly, *Declaration on the Right to Development*, A/RES/41/128, Art 1.

<sup>65</sup> M. Biggeri and A. Ferrannini, ‘Towards a More “Sustainable” Human Development Index: Integrating the Environment and Freedom’ 91 *Ecological Indicators*, 221 (2018).

<sup>66</sup> J. Pronk et al, ‘Desarrollo Sostenible: del concepto a la acción’ 236 *El Trimestre Económico*, 804-805 (1992); S. Anhad and A. Sen, ‘Sustainable Human Development: Concepts and Priorities’, *UNDP Human Development Report Office Occasional Paper*, 5 (1994); J. Pronk and M. Haq, *Sustainable Development: From Concepts to Action – The Hague Report* (1992), 6.

<sup>67</sup> J.G. Speth, ‘Capacity Development and Sustainable Human Development’, in *Encyclopedia of Life Support Systems* (New York: Elgar Publishing, 2009), 256; Id, *UNDP Human Development Report 1995* (New York: Oxford University Press, 1995), 11.

<sup>68</sup> *2030 Agenda for Sustainable Development*, Preamble.

<sup>69</sup> P. Perlingieri, *Il diritto civile* n 46 above, 77.

<sup>70</sup> E. Berisha et al, ‘Unpacking SDG Target 11.a: What Is It About and How to Measure Its Progress?’ 14 *City and Environment Interactions*, 100080 (2022).

should not only be conceived as a process for people but must be driven by them.<sup>71</sup> Active participation of people in decisions and processes that affect their lives is essential to promote both individual and collective autonomy.<sup>72</sup> However, to achieve human sustainable development in terms of property rights and the ‘right to remain in one’s own homeland’, it cannot be refrained from being expressed to the extent that this right, on the one hand, allows local communities to remain in the chosen place, but at the same time allows them to rejuvenate these places, often threatened by natural disasters or already devastated by them.<sup>73</sup> This is the social perspective,<sup>74</sup> thanks also to contemporary international instruments, which encourages and further pushes for a radical, resilient, and sustainable change in property rights,<sup>75</sup> understood in its fourfold representation and ready to face the challenges of tomorrow.

## VII. Business Relocation, Human Sustainable Development and the Bond Between Territory and Local Communities

The preceding paragraphs have provided a systematic overview of the relationship between individuals and territory, as well as that between communities and territory. One particularly illustrative example that helps clarify the issue at hand is the commercial relocation required in areas affected by natural hazards. Notably, the case of the Marche region is noteworthy, where emergency legislation mandated that businesses located within the earthquake-affected ‘crater’ zone - if damaged by the quake - were required to relocate.

The displacement of homes and commercial establishments brought about profound changes to both the geographical and social landscapes of the earthquake-hit regions.<sup>76</sup> As one account notes,

‘the loss of these places represents not only a material or economic loss but also a disruption of complex interconnections that form a precious web of relationships and emotional ties in the Marche region.’<sup>77</sup>

The earthquake fractured the natural environment - not only as a physical space

<sup>71</sup> Rio Declaration, Principle 16; R. Prabhakar, *Financial Inclusion: Critique and Alternatives* (Bristol: Policy Press, 2021).

<sup>72</sup> *ibid* 13.

<sup>73</sup> G. Alexander, *Property and Human Flourishing* (Oxford: Oxford University Press, 2018), 55.

<sup>74</sup> P. James, ‘The Social Imaginary in Theory and Practice’, in C. Hudson and E.K. Wilson eds, *Revisiting the Global Imaginary: Theories, Ideologies, Subjectivities* (London: Palgrave-Macmillan, 2019), 34.

<sup>75</sup> B. Akkermans, *Sustainable Property Law: Reckoning, Resilience, and Reform* (Maastricht: Eleven, 2022), 16.

<sup>76</sup> L. De Bonis and M. Giovagnoli, ‘Terremoti, distruzione/ricostruzione, tradizione/innovazione e comunità locale’ *Scienze del Territorio* 7, 14 (2019).

<sup>77</sup> VV AA, *Fiastra tra buio e luce. Un paese in movimento dopo il terremoto, ricordando Carla Ortona collega e amica gentile nel nostro percorso a Fiastra* (Milan: EDUCatt, 2021) 135.

but also as a setting essential for human interaction and development - thereby severing the vital link that upholds the balance of community life.<sup>78</sup>

In the affected areas of the Marche region, the process of relocating commercial and productive activities<sup>79</sup> was governed by Art (2)(g) of decreto legge 17 October 2016 no 189, as well as by ordinanza 14 December no 9 issued by the Special Commissioner for Reconstruction (and its subsequent amendments),<sup>80</sup> in addition to various Ordinances issued by the Head of the Civil Protection Department.<sup>81</sup> The overarching goal of both the Civil Protection Department and the Commissioner's Office was to ensure continuity of the economic activities that had been disrupted by the seismic events.<sup>82</sup> Presidents of the affected regions and local municipalities were entrusted with identifying appropriate relocation areas in collaboration with business associations and enterprise representatives.<sup>83</sup>

Temporary structures for business relocation were made available in three main forms: (a) within alternative accessible buildings located in the same municipality, either on the original site or on nearby land;<sup>84</sup> (b) in accordance with the specifications set out in Art 3 of OCPC Ordinance No 408/2016;<sup>85</sup> and (c) in public spaces equipped by the President of the Region.<sup>86</sup>

Pursuant to Art 1 of OCSR No 9/2016, relocation could be implemented through four modalities: (a) leasing of existing buildings within the same municipality; (b) construction or leasing of temporary premises on the original property or in neighboring areas, arranged independently by the business owner; (c) relocation options as outlined in Article 1(2)(c) of OCPC Ordinance No 408/2016;<sup>87</sup> and (d)

<sup>78</sup> See above, fn 46.

<sup>79</sup> For the legal definition of 'productive activity', see ordinanza 9 January 2017 no 12, Art 7(5), which includes industrial, artisanal, commercial, service-related, tourism, agricultural, and professional enterprises.

<sup>80</sup> Ordinances of the Special Commissioner for Reconstruction: ordinanza 14 December 2016 no 9; ordinanza 9 January 2017 no 13; ordinanza 7 April 2017 no 20; ordinanza 21 June 2017 no 31; ordinanza 24 April 2018 no 55; ordinanza 9 April 2021 no 114; ordinanza 7 September 2021 no 118; ordinanza 28 April 2022 no 126.

<sup>81</sup> Ordinances of the Head of the Civil Protection Department: No. 394 of 19 September 2016; No. 408 of 15 November 2016.

<sup>82</sup> See decreto legge 17 October no 186, Art 5(2-bis)(g); ordinanza 14 December 2016 no 9, Art 1(1) and (3); ordinanza 19 September 2016 no 394, Art 6.

<sup>83</sup> See ordinanza 5 November 2016 no 408 of the Head of the Civil Protection Department, Art 3.

<sup>84</sup> Decreto legge 17 October 2016 no 189, Art 2(3) (It); decreto legge 11 November 2016 no 2015, Art 3(2) (It).

<sup>85</sup> Ordinanza 14 December 2016 no 9, Art 1(2)(a)-(b), Special Commissioner for Reconstruction (It); Comune di Ussita, 'Delocalizzazione delle attività produttive - Ordinanza n. 9 del 14/12/2016. Comunicazioni e Modulistica', available at <https://tinyurl.com/2usckwc> (last visited 31 January 2026).

<sup>86</sup> Comune di Camerino, 'Bando di concorso per la formazione della graduatoria per l'assegnazione di un locale commerciale di mq. 15 presso il Vallicenter', available at <https://tinyurl.com/3mvkwf2w> (last visited 31 January 2026).

<sup>87</sup> Ordinanza 20 November 2017 no 489, Art 5, Head of the Civil Protection Department (It); see also M. Orazi, 'Rinasce il commercio a Visso inaugurato il centro artigianale' (25 September 2018) *Cronache Maceratesi*, available at <https://tinyurl.com/y9khyefx> (last visited 31 January 2026).

placement within publicly equipped areas prepared by the Region.<sup>88</sup>

While the legal framework appeared, at least formally, to support continuity of economic activity in theory, its implementation in practice proved far more problematic. In reality, access to relocation facilities often depended on competitive tenders or formal applications, leaving excessive discretion to local administrations. This resulted in inconsistencies in access and delays in execution.

In most cases, the provided spaces were inadequate to sustain pre-earthquake levels of production or replicate the turnover previously achieved. Consequently, many enterprises experienced severe economic repercussions. Moreover, the lack of meaningful consultation with local citizens meant that many relocation strategies failed to address the actual needs of the local community. Nevertheless, one significant benefit of proximity-based relocation was the mitigation of psychological trauma. Being able to remain close to one's original location allowed entrepreneurs and employees to preserve emotional bonds with their homeland and avoid further dislocation.<sup>89</sup>

In the Marche region, many entrepreneurs were compelled to continue operating in conditions that neither aligned with their pre-disaster production capacity nor with their commercial ambitions, often resulting in serious financial hardship. These experiences demonstrate the pressing need for a more holistic reconstruction strategy, one that considers not only the economic dimension but also the psychological resilience of affected business owners.

The Marche case illustrates that policies which emphasize emotional and symbolic continuity with the territory, while neglecting concrete business needs, can undermine both mental health and long-term entrepreneurial viability. In response, a data-informed and equitable system for assigning temporary commercial facilities is urgently needed.

It is suggested that public administrations adopt allocation criteria based on verifiable economic indicators, such as a business's pre-disaster turnover. The greater the proven turnover, the larger or more suitable the temporary space to be granted. This method, relying on data validated by institutions like the National Social Insurance Agency in collaboration with local entrepreneurs, would not only ensure compliance with fiscal standards but would also support a fair and proportional distribution of limited resources.<sup>90</sup>

Moreover, the establishment of Business Continuity Plans (BCPs) - as already successfully applied in Japan - at both regional and enterprise levels could serve as a pre-emptive legal and policy tool to limit economic damage in future disasters.

<sup>88</sup> Comune di Bologna, 'Sisma ottobre 2016: attività commerciali', available at <https://tinyurl.com/4vet82b3> (last visited 31 January 2026).

<sup>89</sup> See above, fn 59 and 60.

<sup>90</sup> Regione Marche, 'Modulo richiesta delocalizzazione attività produttive', available at <https://tinyurl.com/ybyp4f7z> (last visited 31 January 2026); Regione Marche, 'Modulo richiesta rimborso per delocalizzazione attività produttive ante 15 dicembre 2016', available at <https://tinyurl.com/dyrehbwr> (last visited 31 January 2026).

Such guidelines prioritize preparedness and structured recovery, enabling businesses to remain operational or resume activity rapidly.<sup>91</sup>

Ultimately, legislators-particularly in disaster-prone areas-must adopt an inclusive approach to disaster risk management. This means treating individuals not as abstract legal subjects, but as concrete persons embedded in networks of relationships, responsibilities, and spatial belonging.<sup>92</sup>

### VIII. Conclusion

In light of what has been said in these pages, it has emerged that the international community also recognizes, within its treaties, the ‘right to remain in one’s own homeland’. In particular, it should be noted that this right falls within the rights pertaining to a citizen of a state to move freely within its territory (Art 13 of the Universal Declaration of Human Rights). By implementing an evolutionary and systematic interpretation of international conventions, it emerged that the territory-community link is indissoluble and, as in the theory of Italian property law, we have come to speak of a ‘plural property’, also in this case, we can speak of multiple ties. These are the types of relationships that are created between the owner and the good, between the owner and the surrounding community, the State and the owner, and finally between the owner, the good, and third parties.

Ultimately, in light of recent international developments and the evolving understanding of ‘home’ under international law, it has become clear that this right also reflects the principle of self-determination of peoples, as enshrined in Art 1 of the United Nations Charter. This connection stems from the fact that the decision to relocate to a particular territory represents the will of individuals or communities seeking to pursue economic, personal, and social development. In this sense, it can be seen as the expression of a segment of a sovereign people recognized by the international community. Thanks to the framework offered by international conventions, it is possible to perceive how the ‘right to remain in one’s own homeland’ allows the human being to develop their existence in the places chosen by them and to make them flourish in virtue of the new apparatus constituted by the right to property which on the one hand remains anchored in its material dimension but at the same time is transformed thanks to the new vital force offered by the social perception that requires the necessary protection of the earthly heritage.

This theoretical and legal framework finds tangible expression in the experience of the Marche region, which, in the aftermath of the devastating earthquake, was confronted with the complex task of reconciling the urgent need for emergency relocation with the preservation of territorial identity and social cohesion. While the temporary displacement of economic and commercial activities was unavoidable in

<sup>91</sup> See above, fn 11.

<sup>92</sup> M.A. Urciuoli, *Situazioni esistenziali ed autodeterminazione della persona* (Edizioni Scientifiche Italiane: Naples 2018), 19.

the short term, it severely disrupted long-standing bonds between individuals, their communities, and the land they inhabited. Despite the legislator's intention to ensure the continuity of economic life, the actual implementation of emergency measures frequently fell short due to inconsistent space allocation, insufficient stakeholder engagement and an inadequate recognition of existing entrepreneurial capacities.

The Marche experience thus highlights the limitations of a relocation strategy driven primarily by procedural or logistical imperatives. Even when new sites were geographically close, they often failed to satisfy the practical or emotional needs of affected entrepreneurs. As a result, many businesses faced reduced output or closure, while the psychological impact of the disaster was compounded by institutional responses that did not fully grasp the multidimensional significance of *place* - as home, identity, and economic base.

In this context, the Marche case underlines the necessity for a more holistic, human-centred reconstruction model that integrates legal guarantees of the right to remain with the concrete requirements of economic viability and social rootedness. Emergency legislation and spatial planning must be informed not only by principles of efficiency and safety but also by a commitment to preserving the collective memory, identity, and economic resilience of affected communities.

Ultimately, recovery strategies must be guided by a fundamental respect for the right to remain - or, where that is not possible, the right to return. This ensures that interventions do not unravel the relational fabric of communities, but instead protect and restore the human, social, and productive continuity on which they depend. The case of the Marche region offers valuable lessons for the design of future legislation and policies, reminding us that territory is not merely a neutral setting for life, but a dynamic and relational environment, whose loss cannot be remedied by administrative logic alone.