

Disclaimer: The views and opinions expressed in this article are those of the authors and do not represent the opinions or the official position of the Organization of American States, its General Secretariat, or its member States.

## **Multilateral Disaster Assistance in the Americas: A simple paradox**

By Pablo Gonzalez

The Inter-American Convention to Facilitate Disaster Assistance is the only legally binding multilateral treaty in the world in matters of disaster assistance. Signed on June 7<sup>th</sup>, 1991, in Santiago de Chile, at the 21<sup>st</sup> Regular Session of the General Assembly of the Organization of American States<sup>i</sup>, the Convention entered into force in 1996 with its second ratification, by Peru. Yet, more than 25 years after its adoption, only a total of six countries have ratified the Convention: Panama, Peru, Uruguay, Dominican Republic, Nicaragua and Colombia, the last one in 2013. In the meantime, the international humanitarian community and states all around the Americas and beyond continue to call for a set of rules that all can obey and can help them – assisted and assisting states, optimize their resources and coordinate their efforts, so that they can maximize the international assistance and reduce the burden of unsolicited one. Theories, conspiracy theories and others, explaining the low level of ratification are in abundance. Yet again, no one seems to have the key to its full ratification and implementation.

The most popular theory concerning the low level of ratification of the Convention has been related to geopolitical positioning and power relations. On one hand, it is said that countries from the so-called ‘north’ are afraid of being exposed to matters of scrutiny and claims for damages when providing disaster assistance to affected countries. On the other hand, it is also said that countries from the so-called ‘south’ are afraid the ‘north’ will use the Convention as an interventionism instrument. Hence, these two arguments do not seem to stand up to serious analysis in light of Article IV of the Convention that explicitly states that *“unless otherwise agreed, the overall direction, control, coordination, and supervision of the assistance within its territory shall be the responsibility of the assisted state”*; and Article XII that states that *“the assisted state waives any claim for loss or damage that could be brought against the assisting state or the assistance personnel as a result of the provision of assistance”*.

So, what could keep Member States of the OAS from ratifying the Convention? The answer may lie in a simple paradox that does not allow Member States to see the full benefit of being part of it. And just like one would not accept an interest- and fee-free credit card, unless there is a real benefit, no state will ratify or adhere to a legally binding instrument unless the benefit is clear and tangible. And the paradox lies precisely in the fact that parties to the Convention will benefit from it only if all OAS Member States ratify the Convention. Even more, the ultimate benefit of the Convention will come when all states that provide disaster assistance in the Americas –whether they are from the Americas or outside the region, ratify or adhere to the Convention. A true ‘Catch-22’<sup>ii</sup>. Only if we could prove insanity by a rationale act! The dilemma of ratifying the Convention is that for any state to benefit from ratifying it all others must ratify it as well.

The only path to ratification of the Convention by all Member States is to find the group of Member States that would benefit the most and would benefit even when not all Member States had ratified or adhered to the Convention. And in the Americas that group perhaps is the Small Island Caribbean States. They all share common development challenges, including geographic and economic isolation, limited resources, environmental fragility, high costs of transportation and energy, and vulnerability to climate change and natural hazards<sup>iii</sup>. Proof of this is the progress made by Member States of the Caribbean Community (CARICOM) and its specialized agency, the Caribbean Disaster Emergency Management Agency (CDEMA), and the several instruments that they have created and are implementing. The Comprehensive Disaster Management Strategy and the Regional Response Mechanism (RRP) are prime examples. Ratifying the Inter-American Convention, incorporating these instruments and using a common text to address specific common issues to the Small Island Caribbean States<sup>iv</sup>, would yield tangible benefits as the Convention would extend the geographic scope of their regional instruments assisting in achieving a coordinated relief and response in case of disaster. It would further serve to protect their sovereign right to control and direct the international assistance, even in those cases when the national authority is disabled; a situation that is quite likely to

happen given the geographic location and small size territories that are usually swept completely by tornados and tropical storms.

Some will still be reluctant to adopt any multilateral mechanism, as they will argue that bilateral disaster assistance has proved to be more agile and fast, as we heard in a recent conference at the OAS last April. And that is undeniable and undisputable. Multilateral assistance requires states and the international humanitarian community to act in coordination and cooperation, which demands additional negotiations and logistic coordination. Yet, the Inter-American Convention to Facilitate Disaster Assistance only serves to enhance bilateral cooperation by establishing a set of mutually pre-agreed conditions and terms, which in turn does not require last minute negotiations or post-disaster agreements. The Inter-American Convention does not obstruct nor replace bilateral assistance, instead establishes the rules for the bilateral assistance to happen in a coordinated and collaborative manner, respecting the sovereign right and duty of the assisted state to control and direct all disaster relief, response and management efforts.

And ratification of the Convention may find additional challenges posed by the multiple regional integration processes that have resulted in the creation of inter-governmental organizations, such as the Union of South American Nations (UNASUR) or the Southern Common Market (MERCOSUR), in addition to CARICOM, the Central American Integration System (SICA), the Association of Caribbean States (ACS), and the Latin American and Caribbean Economic System (SELA), among others. All these organizations have focused on Disaster Risk Management establishing high level task forces or series of specialized meetings; facts that only highlight the geopolitical dimensions of disaster assistance and that adds another layer of difficulty to the implementation of any multilateral approach to disaster assistance.

The decision of ratifying the Inter-American Convention then is a multi-dimensional one. It has a humanitarian dimension, dominated by the need to maximize the international assistance and reduce the burden of unsolicited assistance on the assisted state. But it has also political

and economic dimensions. These last two, in a region characterized by a wide diversity of ideologies and political views, cultures and idiosyncrasies, economies and social conditions, can in the end be the ones that tip the balance one way or the other.

In spite of these challenges, the path to full ratification of the Convention seems clear. CARICOM Member States have much to benefit from ratifying the Convention. They have a robust set of instruments and mechanisms which, if incorporated into the Convention, would extend their reach beyond the Caribbean and over time beyond the Americas. By using a common text in their ratification, the Convention would address some specific needs and characteristics of the CARICOM Member States, such as the designation of the national coordinating authority in cases where the national authority is unable to control and guide the assistance and manage the emergency. Member States outside the Caribbean will have to exercise political courage and fine diplomacy, but benefits will be tangible and, if well-played, the Convention will help them realize their geopolitical aspirations while effectively assisting affected Member States in need and accessing international assistance for their own sake.

The stage is ready. OAS Secretary General Luis Almagro has made Disaster Risk Management, and particularly Disaster Assistance, one of his strategic initiatives. And like never seen since the adoption of the Inter-American Convention to Facilitate Disaster Assistance in 1991, the General Secretariat and the Member States have placed the highest priority on matters of disaster risk management, disaster assistance and disaster management. The *Inter-American Plan for Disaster Prevention and Response and the Coordination of Humanitarian Assistance*, adopted by the General Assembly in 2012, highlights the need to strengthen the coordination among existing international humanitarian assistance mechanisms, and the recently adopted *Inter-American Program for Sustainable Development* (PIDS) identifies Disaster Risk Management at top of the six strategic areas to support the efforts of Member States in achieving the objectives of sustainable development.

Disaster assistance will always be provided bilaterally. Yet, the implementation of a well-designed multilateral treaty, like the Inter-American Convention to Facilitate Disaster Assistance, will provide the set of rules that can allow for a coordinated and collaborative international assistance that maximizes benefits for all, reduces the burden on the assisted states of unsolicited assistance, and allows assisting states to optimize their assistance. Let's break the paradox of the Convention for the sake of those who most need a collective effort in solidarity.

---

References:

<sup>i</sup> Inter-American Convention to Facilitate Disaster Assistance. June 7<sup>th</sup>, 1991. Santiago de Chile. 21<sup>st</sup> Regular Session of the General Assembly of the Organization of American States. Retrieved on June 28, 2016 from: <http://www.oas.org/juridico/english/treaties/a-54.html>

<sup>ii</sup> From the 1961 Joseph Heller novel that coined the term 'Catch 22' in the dilemma that World War II pilots were confronted in their attempt to prove insanity to avoid dangerous missions.

<sup>iii</sup> The Caribbean Development Portal from the United Nations Economic Commission for Latin America and the Caribbean. Retrieved on June 21, 2016 from: <http://caribbean.cepal.org/t/small-island-developing-states> .

<sup>iv</sup> Article XX states that "The states parties may, at the time of approval, signature, ratification, or accession, make reservations to this Convention, provided that such reservations are not incompatible with the object and purpose of the Convention and concern one or more specific provisions."



**Pablo González** is the Principal Specialist and Chief of the Program for Disaster Risk Management and Adaptation to Climate Change (RISK-MACC) of the Department of Sustainable Development (DSD) at the Executive Secretariat for Integral Development (SEDI) of the General Secretariat of the Organization of American States (GS/OAS).

He has over 25 years of experience in integrated water resources management (IWRM) in transboundary basins and in disaster risk management (DRM), as well as in applied GIS, remote sensing and image processing to natural resources management, with emphasis in conflict (over competitive uses of land and water) resolution. He has spent some time studying the differential roles and conditions of women and men in IWRM and DRM –defined around gender-related social constructions, has a special interest in geopolitical strategies that define relationships among States and joint approaches to sustainable development.

He holds a degree in Land Surveying Engineering and a post-graduate degree in Geodetic & Geophysics Engineering from the Universidad de Buenos Aires. He also holds a Master’s degree in International Development and Geographic Information Systems (GIS) from Clark University, in Massachusetts. He has served as a volunteer Emergency Medical Technician (EMT) with the Bethesda-Chevy Chase Rescue Squad and the Wheaton Volunteer Rescue Squad, in the State of Maryland.



**Román Arciniega** provided research and technical editing assistance during his internship with RISK-MACC in the summer of 2016. He is a Lawyer graduated from the Benemérita Universidad Autónoma de Puebla and holds an International Joint Master’s degree in Sustainable Territorial Development from the Universities of Padova, KU Leuven, Paris 1 Sorbonne and UCDB.